

RAIS CONFERENCE PROCEEDINGS

The 12th International RAIS Conference on Social Sciences

APRIL 3-4, 2019

EDITOR NICOLETA-ELENA HEGHEŞ

This publication presents the *Proceedings of the 12th International RAIS Conference on Social Sciences and Humanities* held at Princeton, The Erdman Center, 20 Library Place, Princeton, NJ 08540, USA, on April 3-4, 2019. The Conference was organized by Research Association for Interdisciplinary Studies.

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Preface

The *12th International RAIS Conference on Social Sciences* held at Princeton, The Erdman Center, 20 Library Place, Princeton, NJ 08540, USA, on April 3-4, 2019 was organized by The Research Association for Interdisciplinary Studies (RAIS).

The RAIS Conferences encourage academics and researchers from around the world to share their experiences, achievements, research findings, and to discuss and exchange ideas on issues in the field of social sciences and humanities.

The RAIS Committee received 125 submissions. The papers were reviewed by at least two independent reviewers under a double-blind peer review process. Out of the received submissions, 59 papers were accepted for oral presentation during the conference and for inclusion in this volume. The acceptance of manuscripts was based on originality, scientific content, significance, and readability.

Conference participants, including presenters and attendees, had the opportunity to listen to the research insights and ideas presented by the scholars representing many foreign universities and research institutions from Australia, Brazil, Cameroon, China, Czech Republic, Germany, Haiti, India, Kuwait, Lebanon, Morocco, Nigeria, Pakistan, Poland, Portugal, Romania, Russia, Saudi Arabia, Taiwan, Turkey, UAE, and the USA. I would like to express great appreciation to all members of the scientific and organizing committee, session chairs, presenters, and reviewers for making and putting this conference together.

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Experiences, Choice and Well-Being: An Economics of Psychological Energy

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ABSTRACT: This paper proposes an economic model of psychological energy used toward the production of experiences. A review of ideas at the nexus of economics and psychology, and how they lead to the thesis of this paper, is presented. A simple mathematical economic model is developed, with two main uses of psychological energy toward well-being. These are the generation of impressions (inward experiences that are sense-like) and expression (outward experiences that are action-like). Choosing is understood as investing energy to change the probabilities of an outcome. The model optimizes energy use between intensity of impressions and capacity for expression. For a fixed energy level, as experiential intensity increases resources are substituted out of decision making and implementation, leading to choices of lower utility. If the material losses are substantial during an experience, the share of psychological energy used to modify impressions will increase, and away from influencing seemingly random external outcomes. Over multiple periods, this generates a feedback loop where the person feels increasingly disempowered, and thus less concerned about making better choices. This feedback loop can be stopped by an external entity providing sufficient resources for the person to experience greater expression.

KEYWORDS: Impression, Expression, Internal Environment, Poverty Trap

Introduction

The premise of this paper is that the essence of economic activity is the generation of experiences. Our choices influence these experiences in two important ways. The first is over the expressions to manifest through our behavior. The second is over how to interpret events that leave the impressions we savor, and which become our memories and foundations for future experiences. It is in this balance of impressions and expressions, given our finite material and psychological resources, that our well-being is generated. The standard conception of economic activity is that of production, exchange and consumption, with a particular focus on material goods and services. However, experiences are more than this; they can be creative, spiritual, social, and transformative, among other qualities. In the same way that Lancaster [1966] conceived of decision making as choice over attributes of goods, we can consider it as choice over aspects of experiences.

Pine and Gilmore's *The Experience Economy* (2011) delves deep into a world of staging events of value for an audience. They explicate a model describing the progression of economic value from commodities, through goods and services, into experiences. For them "Work is Theater" and the retail shop is replaced by a performance stage. They describe experiences along two axes: passive-active and absorption-immersion. An experience is active if the consumer influences the performance, and passive otherwise. Absorption describes how completely an experience occupies a person's attention. Immersion describes how fully a person becomes part of the experience. This leads them to write of transformations as the further culmination of economic value, where the customer is the product.

If Pine and Gilmore highlight the economic value of experiences, Mulainathan and Shafir (2013) remind us of the costs involved. They consider the behavioral economics and cognitive psychology involved with scarcity, as we face situations of finite time and resources. They start by elaborating on the distinction between "tunneling" and "focusing." Tunneling occurs when we ignore potential feasible alternatives, once we have committed to an action. Focusing is our ability to invest our mind toward an outcome, while remaining open to potential contingencies and emergent alternatives. They describe a finite bandwidth available for "cognitive capacity" and "executive control" that drives our

behavior and worldview. However, this scarcity of mind is distinguished from a scarcity mindset. While all of us must contend with the first, it's the latter that some will struggle against. The authors present poverty as both external and internal (whether individual or organizational), due to what they refer to as a "bandwidth tax", the cost in mental space. The limited internal resources leads to myopic choices.

Laajaj (2012) presents the results of a study where impoverished farmers are provided financial resources. His hypothesis, which the results support, is that the amount of resources available affects not only what can be bought, but also how decisions are made. In particular, as the farmers were provided greater aid, they made decisions with broader time horizons. Those in poverty are limited in planning for the future, which magnifies that future's uncertainty. Axelrod (1990) demonstrates how scarcity on the ability to process uncertainty would limit how far the future is considered in a present value calculation, beyond which the consequences would be ignored.

To deepen the connections between economics, experiences, choice and well-being, it will be insightful to consider Tibor Scitovsky's *The Joyless Economy*. He writes, "Culture is the preliminary information we must have to enjoy the processing of further information" (Scitovsky 1976, 226). This sentence captures two essential elements. First, it describes how we live in an information economy. The utility, and value, of a set of information is contingent on how we can process and understand it. The blossoming of the information economy, with its culture of data exchange and accumulation, and the various software and hardware required to partake in it, has been right on cue. Second, culture can also be understood as the psycho-sociological space within which economic matter moves, is measured and, ultimately, is experienced. To a hammer, everything seems like a nail; to an artist a nail can be anything.

The 19th century economist Leon Walras succinctly expresses this distinction. Walras (1954) described persons as "self-conscious" and "self-determining." Things are "not self-conscious" and are at the command of persons. This dichotomy presumes that persons and things are clearly defined, and that personhood is inviolable. This presumption is useful for the sake of developing a novel theory; however, it bypasses one of the essential reasons for having economic activity - to experience ourselves as persons through self-expression. In other words, an economy produces persons, as well as things. Walras goes on to describe the distinction between intensive and extensive utility. The marginalist revolution, of which he was one of its founders, incorporated the subjective as part of its explanation of economic behavior. It is the psychological space which modern economics ultimately relies on to explain consumer behavior.

The relationship between space and matter can also be understood in the nature of savoring. Scitovsky (1976, 184) raises the question, "Is it Too Dull?", and writes, "Few people will admit to themselves, or even be conscious of, their lack of skill in savoring food." Part of his argument refers to the blandness of American food relative to European food. One can immediately appreciate the role of space in welfare and enjoyment by considering a simple experiment. Take a dish of your favorite food. From this, have a small bite, and focus on its flavor. Next, take a slightly larger bite, and again allow yourself to focus on its flavor. Repeat this until you have had a big bite, so large that it almost fills your mouth. Does it still have the same flavor? Do you get the same enjoyment of its taste? Is your most flavorful bite size smaller than the largest bite you could take? It is not just matter, but also the space to savor it, that affects our experiences. One can easily imagine a utility function with volume of space/time, and mass of matter, as variables. Indeed, households with income constraints face a trade-off between how big a house to live in, and how much they can fill it with. Becker (1965) explicitly introduces time as part of consumption. The implication is direct. When an individual (or society) stuffs themselves so that they have no space to savor what they have consumed, well-being can decrease. This does not negate the typical economic assumption that more is preferred to less. Rather, it is the recognition that there is a trade-off between having more things, and having the space to enjoy them. It is the need for this "inner" space, for room to reflect upon sensation and to appreciate its

interconnectedness with other experiences, which limits the applicability of standard economics. It is the space between bits of information that enables us to have information at all.

Lancaster (1966, 132) writes, “All intrinsic properties of particular goods, those properties that make a diamond quite obviously something different from a loaf of bread, have been omitted from the theory, so that a consumer who consumes diamonds alone is as rational as a consumer who consumes bread alone, but one who sometimes consumes bread, sometimes diamonds (*ceteris paribus*, of course), is irrational.” His recognition of the importance of the essential properties of an external good underscores the distinction between what is being produced and sold, and what consumers are seeking, the ability to satisfy desires, needs and wants. It is not surprising to see the contemporaneous writings of Lancaster and Scitovsky attempt to fill the void of economic theory at the time. One approach focused on the intrinsic attributes of the good, the other the intrinsic attributes of the consumer. In essence, the simple awareness of the intrinsic attributes of a good must be developed before they can be appreciated. This is about the relationship between the good and the consumer. With respect to the experience of well-being, it is as if the consumed and the consumer are complementary economic goods. From a neuroeconomic perspective, it is the availability of both neurotransmitters (like dopamine) and binding receptors that is required for an experience to occur (Doidge 2012).

If we understand that the ultimate outputs of an economy are experiences, then we can speak of the attributes of these experiences. That experience can be of eating tasty food, watching a compelling movie, scoring a goal in a soccer match, playing music on a piano, or taking a relaxing walk along a canal (among many others). Deeper, though, is the distinction between consuming and choosing. Part of our experiences are the attributes of who we are. When I play electric bass, one part of the experience is the sound that is produced. However, another part of the experience is the feeling of performing, of creative expression, that I have choice over what I am doing, and that it is reflected in how the material world manifests. Even if I do not play a composition as well as others might, it can be more satisfying to play it myself, than to sit and watch someone else play. In both cases I can feel a sense of well-being, yet one is not quite as fulfilling as another. Csikszentmihalyi (1990) might refer to the state of mind associated with this expressive satisfaction as “Flow.” The sounds I make when playing can leave impressions within those who listen (including myself). The energetic flow of having chosen to play those sounds is one of expression. We seek to optimize the balance of these two.

This distinction is also similar to the one that Herbert Simon (1976) makes between substantive and procedural rationality. The former identifies rationality based on what one chooses (e.g. what one consumes). The latter identifies rationality based on how one chooses. The first is about the choice made being rational, the second about the chooser being rational. In his *Models of Man* (Simon 1957), bounded rational agents are limited in processing information. This relates back to Scitovsky’s quote above. Culture is, in effect, one of the bounding factors, and is essential in determining what alternatives are ignored and how they are valued. Some of the attributes of culture are the resources available, such as material wealth. The more one spends on making decisions the less is available to implement them. However, if one uses too little resources in making decisions, the remaining resources may be used so inefficiently as to lead to an inferior outcome. Again, one can imagine another utility function where one input is the space to make decisions, and the other is the material with which to implement them. Castellani, Di Giovinazzo and Novarese (2010) discuss this relationship between procedural rationality and happiness.

The value of expression in relation to economic activity has its recognition over the spectrum of economic philosophy. Fromm (1961, 34) summarizes Karl Marx’s description of labor as “not only a means to an end - the product - but an end in itself, the meaningful expression of human energy.” Von Mises (1996, 22) writes that causality is a prerequisite of acting, and, “Only a man who sees the world in the light of causality is fitted to act.” Whether Protestant work ethic (Weber 1930), or the artist’s “queer divine dissatisfaction” (Graham in De Mille 1991), it is the embrace of oneself as a force of

nature that unleashes both the creation and production of goods, and their valorization, essential for an economic world-view. The moment of choice is valuable not only because of its consequences (the range of options in the future), but also as an end in itself. A day of rest at the end of the workweek gives us space to savor life. It is that much sweeter when we have worked diligently, such that what surrounds us is easily imagined as our own handiwork, and what we find within delights us as well.

Scitovsky (1976, 262) also writes, “People's desire for the uniqueness of a painting, an art object, a dress, or any other possession therefore, however snobbish it may seem, is soundly based on a desire for maximum novelty and stimulus enjoyment.” If commodities and consumers are complementary, then we might expect the uniqueness of self (and its perpetual reinvention) to also provide novelty and stimulus. If persons are self-determining, then in the absence of innovation in the environment, especially the socio-economic environment, we might expect this drive for novelty to find internal expression as a change in self and perception. Thus, how a person filters external stimulus and generates impressions is not just dynamic, it is also an outcome of decision-making and choice, even if arrived at unconsciously. In a world of bounded rationality and adaptable minds, it becomes rational to adapt preferences and perception to fit a world that seemingly has become static. If the food stays the same, novelty and stimulus can be found in practicing how to taste differently. In the most extreme case, one might use hallucination and fabrication to create the desired novelty (McKenna 1993). The minimalism of Zen is the maximization of the space with which to savor life.

However, if there can be commodity fetishism, there can also be consumer fetishism. One could argue that the Von Mises' conception of consumer sovereignty is exactly that. Scitovsky (1962, 248) writes, “The economist could wash his hands of value judgments only if the public's preferences were really given and he could accept them as such.” Thus, the ability to produce consumers (or at least their preferences) is as important to economic growth as the ability to produce goods. Indeed, the essence of marketing, what makes it useful and valuable, is just that. In a world of scarce resources, the full cost of a sustainable culture must include the energy used both for producing the tokens of culture (art work, cuisine, sports gear, musical instruments, weapons, etc.), and the capacity to use and appreciate them. It takes both objective expression (extensive utility) and subjective impression (intensive utility) for the manifestation of a culture and its associated sense of well-being.

All of this leads to an economics of psychological energy. Since, as Doidge (2012) writes, the brain has neuroplasticity and can change itself, then the mind literally faces a choice between using energy to trigger muscular responses that can change its external environment and/or to trigger glial-neural responses that change its internal environment. One suggested physical mechanism is glucose available in the brain (Gailliot et al. 2007). Well-being becomes a holonomic experience that is dependent on the interplay of expression and impression. *Holonomics* (Robinson and Robinson 2014) elaborates on this in terms of business and ecology. Sustainable well-being is dependent on the economic resources to perpetuate an equilibrium of mind, even as the world appears chaotic.

Experiences, Impressions and Expressions

Experiences are events that leave impressions and/or give expression. An impression is relative to an observer, and can be understood as energy impressed upon that observer. It is sense-like. An expression is relative to an actor, and can be understood as energy expressed from them. It is action-like. Well-being is a state that can arise from these impressions and expressions. For a musician, what they play/sing are expressions, what is heard and felt are impressions. To those familiar with yogic philosophy (Taimini, 1961), the distinction between impressions and expressions is similar to that of *jnanendriyas* (cognitive senses) and *karmendriyas* (active senses) as described by Mishra (1997). Given that the practice of yoga involves mental focus, it can be understood as an applied economics of the mind involving choice over how to use the resources of awareness and consciousness. A self-conscious decision maker is one for whom their expressions and impressions are entangled.

The capacity to express oneself is, in essence, a feasible alternative set. Thus, preferences describe a hierarchy of expression. This is similar to the hierarchy of needs described by Maslow (1943). The capacity for, and preferences over, impression, can be understood similarly. Well-being is a realization of these preferences and capacity. Further, such capacities are dependent on the history of choices made. For example, the capacity to express oneself as a musician depends on the choice to practice and study an instrument, which in turn is dependent on the choices made by others to have produced instruments, to have taught music, to have provided you with a place to practice, and to have endowed you with enough raw talent to make it all worthwhile. The same holds for impressions.

It is important to recognize that the manifestation of the material world is an outcome of many entities expressing themselves simultaneously. When a person makes a choice, they are only influencing that outcome. The more powerful a person, the closer the world expresses their choice. Under certain circumstances, a person chooses as if they are the sole influence. For example, if you are home alone for the evening, and well-stocked with ice cream, your choice to eat ice cream will be almost certainly realized. Thus, choice is an expression that changes the probabilities of events. We can make a conjecture: the greater the energy of expression, the more likely its realization.

Since choice is an expression of preferences, all else equal, the greater the energy used to make a choice, the more preferred the expected outcome. Consider how one will spend more time and effort buying a car (researching brands and models, dealers, reviews, etc.) expecting that a better choice will be made. One may still end up buying a car while using little effort to make a choice; however, it is unlikely to be the best deal one could imagine having made. Further, if one makes no effort to choose buying a car, one could still end up owning a car, but only by chance (e.g., gift or bequeathal). What is important, from an economic perspective, is that we can understand that the expected utility of a choice is a function not only of the goods and services being considered, but also the resources used to make that choice.

One property of experience can be self-consciousness. In this case the feasible alternative set is not of material economic goods and services, but of how to perceive one's self as a decision maker. As such this choice influences economic activity (in a material sense) and well-being (as a physiological and psychological state). This has implications for how a decision maker frames and views their choices. For example, consider when people say, "Choose from your heart and not your head." The first is an appeal to the emotional and subjective. It is the strength and intensity of feelings that energizes a chosen alternative. The latter is an appeal to the rational and objective. It is the facts and their logical implications that decide upon an alternative. Choosing "from the heart" can be understood as substantively rational if emotional states are understood as another type of good. In other words, the well-being (W) of a person is a function of psychological and economic states (other factors can be included, such as sociological status and connections). One way to imagine this is the psychological state as the interface between the material world and the experience of well-being. The implication is that, under particular conditions, choosing emotionally with less pecuniary benefit is preferable to choosing rationally with more pecuniary benefit. Whether there is regret later on depends on the future-experienced cost of having chosen emotionally.

Model

In the model to be presented, psychological energy can be used both to transform the internal space from which impressions arise, and to focus on which expressions are chosen. In the context of bounded rationality, there is a trade-off between resources used to experience and resources used to choose. A useful analogy is the distinction between choosing a radio frequency to listen to, and how much to amplify that signal. The latter influences how intensely the signal is experienced. As experiential intensity increases resources are substituted out of rational processing, leading to choices that tend to

have lower utility (less preferred). However, the over-all sense of well-being can be enhanced if the increase in intensity more than compensates for the reduced utility.

Before presenting the mathematical model, the essential relationships underlying them are displayed in Figure 1. The decision maker is faced with an external environment (an amalgam of material and social factors), an internal environment (which includes, but is not limited to, beliefs, paradigms, filters, instincts, habits, reasons and available energy), and an interface between the two (typically understood as the body, and especially the brain). The state of the external environment triggers events toward the person (inputs), which go through processing, and generate impressions and energy. Impressions go through another round of processing, and generate expressions (dependent on energy available). These expressions become events from the person (output), which then impact the interface and external environment.

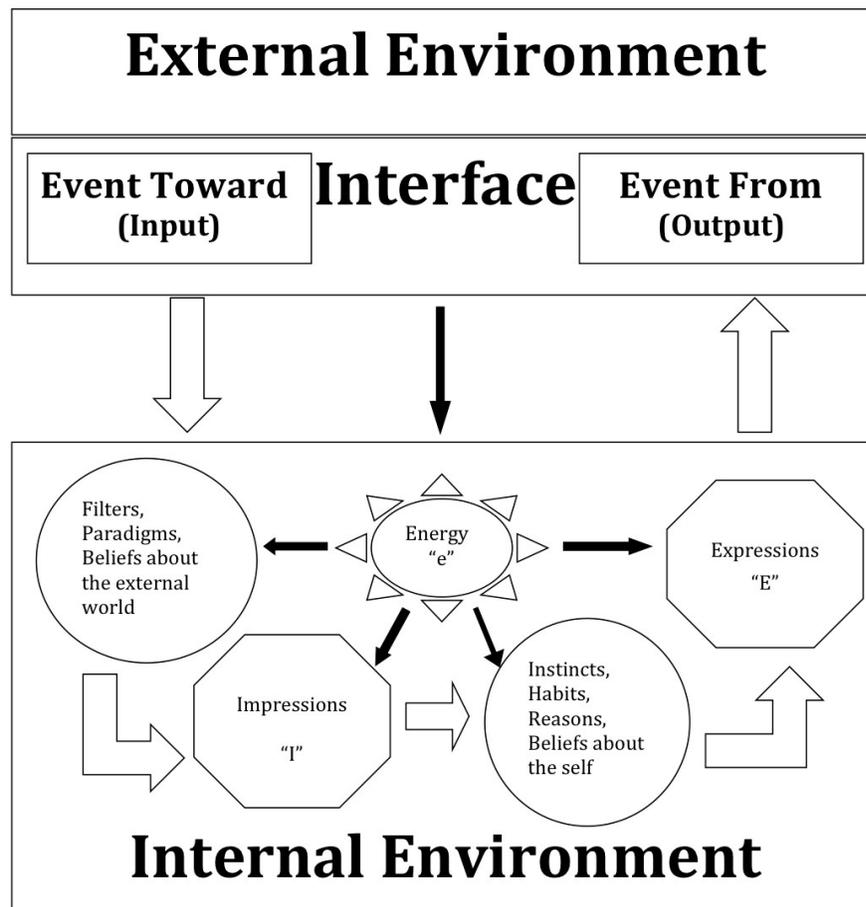


Figure 1: Representation of Environments, Energy, Impressions and Expressions

In our mathematical model we make the following assumptions:

A) Psychological resources are finite. Specifically, the psychological energy available to transform the internal environment (savoring an impression), and/or transform the external environment (choose an expression) is limited. This is represented by the following constraints:

$$e_I + e_E \leq e, \quad e_I \geq 0, \quad e_E \geq 0 \quad (1)$$

where e is the total energy available, e_I is the energy used for receiving impressions and e_E is the energy used for giving expressions. One could also conceive these as energy internalized and energy externalized. Although not developed in this paper, a multi-person model might include energy exchange and dynamic internal/external boundaries, potentially useful for discussing organizational and social psychology.

B) The intensity of experiencing an event increases, at a decreasing rate, as more resources are used to amplify this intensity. We can also conceive this as the volume of internal space inflating at a decreasing rate, as energy internalized increases. A simple relationship would be:

$$I(e_I) = (e_I/\alpha)^\beta, \text{ where } \alpha > 0, 0 < \beta < 1 \quad (\alpha \text{ is a normalization constant}) \quad (2)$$

C.1) The expected utility derived from an outcome (x) depends on the resources used to choose the outcome, i.e., the more resources that are available to choose an outcome, as an expression of one's preferences, the greater the utility of the outcome (a form of bounded rationality).

C.2) If no resources are used to make a decision, the expected utility of a random (possibly habituated) event is U_0 . A simple formula consistent with C.1 and C.2 would be:

$$U(x, e_E) = (U_0(x) + \phi * e_E), \text{ where } 0 < \phi \quad (3)$$

We use this formula to allow for the possibility that utility could be negative, if U_0 is negative and insufficient energy is used to improve the situation. Let e_E^m be the minimum level of expressive energy required to increase expected utility to 0. Thus,

$$e_E^m = -U_0 / \phi \text{ when } U_0 < 0, \text{ and } 0 \text{ otherwise} \quad (4)$$

D) The Well-being of an individual is a function of the Intensity of experiencing an event and the Utility of manifesting an event. A simple multiplicative form would be:

$$W = I * U = [(e_I/\alpha)^\beta] * (U_0 + \phi * e_E) \quad (5)$$

The above assumptions can be incorporated in the Lagrangian function:

$$L = [(e_I/\alpha)^\beta] * (U_0 + \phi * e_E) + \lambda * (e - e_I - e_E) \quad (6)$$

If we take the first-order necessary condition to maximize L we get:

$$dL/de_I = (\beta/\alpha) (e_I/\alpha)^{\beta-1} (U_0 + \phi * e_E) - \lambda = 0 \quad (7)$$

$$dL/de_E = \phi (e_I/\alpha)^\beta - \lambda = 0 \quad (8)$$

$$dL/d\lambda = e - e_I - e_E \geq 0 \quad (9)$$

From this we derive,

$$(\beta/\alpha) (e_I/\alpha)^{\beta-1} (U_0 + \phi * e_E) = \phi (e_I/\alpha)^\beta \quad (10)$$

and finally, when $e > -U_0 / \phi = e_E^m$ and $e > (\beta U_0 / \phi)$:

$$e_I = (\beta / (1 + \beta)) * (e + (U_0 / \phi)) \quad (11)$$

$$e_E = (1 / (1 + \beta)) * (e - (\beta U_0 / \phi)) \quad (12)$$

However, corner solutions can exist. If $e > e_E^m$ and $e \leq (\beta U_0 / \phi)$, then $e_E = 0$ and $e_I = e$. If $e \leq e_E^m$, then $e_I = 0$ and $e_E = e$ (although $W = 0$ for any e_E). An interpretation of $e_I = 0$ is the person collapsing to a “perfectly” objective entity – something without internal space to be subjective.

What does this mean? If the person is endowed with enough psychological energy they will diversify it between expanding the space to savor impressions and flowing the resources to materialize expression. If that energy is small, and they face a positive random outcome, they will invest all of it toward savoring the experience, and none of it toward choosing a better expression. If a person has little energy and faces a negative random outcome, they will avoid experiencing the world, and are unlikely to do anything to improve it.

Dynamic Model with Endogenous Energy

Let us now consider the implications of the model, in a multi-period world. What happens to total energy (e), and its distribution, over time? To consider this we must hypothesize how e changes. One place to start is by assuming that the level of utility in the present moment affects how much energy is available in the next. This seems reasonable, since part of the meaning of economic utility is producing the energy to express oneself. So, we add the following assumptions:

E.1) There is a level of utility, U^* , in the present moment which generates the same psychological energy for the next moment as the present.

E.2) There a maximum level of psychological energy, e^* , that can be held.

We use the following formula:

$$e_{t+1} = \text{Max}[e^* , (U_t / U^*)^\nu * e_t], \quad 0 < \nu < 1, \quad \text{when } U_t > 0 \quad (\text{otherwise } e_{t+1} = 0) \quad (13)$$

Where U_t is the level of utility in period t . Substituting in for U_t we then get

$$e_{t+1} = \text{Max}[e^* , ((U_0 + \phi * e_{E,t}) / U^*)^\nu * e_t] \quad (14)$$

The situation $e_{t+1} = 0$ means no psychological energy is available. Various scenarios are summarized in Table 1. Note that if $e_t > (\beta U_0 / \phi)$ and $U_0 > 0$, then $((U_0 + \phi * e_t) / (1 + \beta)) > U_0$.

What does this mean? First, if U_0 is negative and the starting energy is sufficiently large to enable positive utility, the generation of energy in the next period is similar to the case for non-negative U_0 , except that the required energy is relatively higher. In other words, the bar is set higher, but if crossed the results are similar. Second, if the energy is not enough to generate positive utility in any circumstance, the result is that there is no energy for the next period, and the person will become psychologically “dead”, an object without any inner space or resources. Third, for a finite mind there is an upper limit for energy increase. In this model, without intervention, psychological energy would continue at e^* . A future model will consider other possibilities. An example will be an energy cost for discharging energy beyond the maximum. This could be interpreted as a repair, or healing, cost for overload. Thus, sustainable well-being would depend on approaching, but not reaching e^* ; otherwise, going beyond the maximum could leave a person with less energy in the future. This could describe individuals with some forms of epilepsy, or bipolar functionality. Another possibility is the surplus energy beyond e^* overflows into other persons. This could describe those who are inspirational.

Table 1: Change in Psychological Energy over Time

$U_0 \geq 0$		$U_0 < 0$		
$e_t \leq (\beta U_0 / \phi)$	$e_t > (\beta U_0 / \phi)$	$e_t \leq (-U_0 / \phi)$	$e_t > (-U_0 / \phi)$	Energy‡
$U_0 < U^*$	$(U_0 + \phi^* e_t) / (1 + \beta) < U^*$	All cases	$(U_0 + \phi^* e_t) / (1 + \beta) < U^*$	Decrease
$U_0 = U^*$	$(U_0 + \phi^* e_t) / (1 + \beta) = U^*$	N.A.	$(U_0 + \phi^* e_t) / (1 + \beta) = U^*$	Same
$U_0 > U^*$	$(U_0 + \phi^* e_t) / (1 + \beta) > U^*$	N.A.	$(U_0 + \phi^* e_t) / (1 + \beta) > U^*$	Increase

‡ Decrease bounded by 0, Increase bounded by e^*

Conclusion

This paper attempts to show how conceiving economic activity as generating experiences can be used to create a simple model of well-being, and the distribution of psychological energy toward experiencing and choosing, using the concepts of impressions and expressions. The results suggest that the lower the energy available, the more likely an individual will use it to savor the impressions from a seemingly randomly supplied material world. However, the greater the energy and/or economic endowment, the more an individual will use that energy to express themselves in the world. A further implication is that with greater resources comes the tendency to make choices that can reinforce expression that leads to a growth in psychological energy, a virtuous cycle. On the other hand, those who start with little psychological energy, and face a weak (or bleak) economic condition, will tend to avoid expressing themselves, leading to less energy and well-being, until they shut down at the end of a vicious cycle. These cycles can be broken by a change of fortune, including the behavior of others.

One could enhance the realism, and applicability, of these models by including other elements (e.g., intertemporal choice, social interaction and further feedback structures between economic resources and psychological energy). Of particular interest would be how U_0 and U^* change with wealth and well-being (a topic for another paper). Although the model is presented as the inner workings of an individual, the same principles and insights could be ascribed to social groups and their drifts toward empowerment or myopia.

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The Impact of Social Variables on Financial Performance

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ABSTRACT: In recent years, the discussion on corporate social responsibility has surged and firm management are seen to devote more efforts and resources towards improving their social image. Even under such intense public scrutiny, product recalls in the electronics, automotive, and healthcare sectors have not declined. Quality issues persist due to the severe competitive pressure to meet time to market' product launches. Carbon emissions and green-house gases generated by industrial manufacturing, waste disposal, and automotive vehicles also continue to rise. The research purpose was to investigate the impact of individual social variables on financial performance. This research paper used multiple linear regression to assess the relationship between key indicators of corporate social responsibility and financial performance from 372 corporations in the S&P500 in 2014. The theoretical foundation was Freeman's stakeholder theory. Environment, community, human rights, diversity, employee relations, product quality, and corporate governance were measures of social performance. Return on assets was used to measure financial performance. When independent social variables were evaluated with corporate financial performance, employee relations and product quality in the healthcare sector, and community in the financial sector, were found to be positively significant. Environment, product quality, and corporate governance in the financial sector, and employee relations in the consumer and energy sectors, were found to be negatively significant. This research revealed that the relationship between some social variables and financial performance are significant, but not always in a positive direction. Based upon the findings established in this paper, managers can use the findings to evaluate their firm's social position, develop strategies to address gaps, and undertake actions to enhance their firm's social performance, thereby creating positive social change in the community.

KEYWORDS: social variables, corporate social responsibility, financial performance, stakeholder theory

Introduction

In the past decades, the discussion on social and environmental issues have become more prevalent in the corporate boardroom. What are the key metrics that will determine a company's social performance? What is the impact on the investment of resources towards social responsibility with financial performance? If it is so determined that socially responsible companies are more profitable, what are the key social metrics that managers should focus on? Friedman (1970) asserted that the primary purpose of corporations is to maximize returns to shareholder while Freeman (1984) proposed the stakeholder theory, that in addition to a firm's corporate fiscal responsibility, there are other key stakeholders that should be accorded attention. Whose philosophy should organizational leaders follow? This paper provides a discussion on corporate social responsibility, an analysis of the key social variables, and investigate their impact to financial performance.

Literature Review

In the initial phases of a firm's start-up, the founder's mission and purpose is to serve their customers and the needs of the society through the sales and distribution their products and/or services. As the firm grows and expands its market reach, the returns on sales and profits follow the same pattern. Profits are reaped as a result of the competitive advantages and unique value propositions secured by the firm in the market. In these phases of growth and expansion, though the idea of corporate social responsibility (CSR) has not been explicitly promoted, such a philosophy should be no doubt an inherent trait (Lim 2017). As firms' market capitalization grows and eventually achieve a public corporation status, the pressure exerted on executives to maximize firm profits is exacerbated (Friedman 1970). Such a path is one that all large corporations must travel and that unfortunately leads the firm on a road to chasing

bigger returns quarter after quarter. To that end, the global environment experienced a surge of climate and environmental issues in the recent decades attributed to increasing pollution caused by heavy manufacturing industries. Environmental crises due to corporate irresponsibility has also increased significantly in the last few decades. Examples might include the Bhopal chemical disaster in 1984, the Chernobyl nuclear accident, and the BP oilrig at Deep Water Horizon's explosion resulting in an oil spill in the Gulf of Mexico (Crossman 2011).

The philosophy and thinking of CSR has existed for more than six decades. It began in the 1950s when Bowen (1953) first developed the viewpoint that businessmen must consider their obligations to the society at large while making decisions or formulating policies surrounding their business' objectives. Various stages of development and evolution of the CSR framework ensued. Lee (2008) described the evolution of the CSR milestones as follows: "social responsibilities in the 1950s-1960s, enlightened self-interest in the 1970s, corporate social performance model in the 1980s and strategic management in the 1990s." Most firms do not question the necessity to adopt good CSR behaviour however, the question that arises is what is the impact of CSR with financial performance (Harrison & Wicks 2013)? The question on whether CSR is a necessary undertaking has also puzzled academics and practitioners for a long time until recently. The United Nations Global Compact reported that more than 8,000 companies from more than 150 countries are signatories to the United Nations' Global Compact, covering issues on human rights, labor standards, the environment, and anti-corruption initiatives (UN Global Compact 2014). This illustrates a shift from treating CSR as a secondary variable of corporate strategy to an elevated status in the organizational strategic planning process. The Indian conglomerate, Tata Sons, appoints a senior executive to lead the group's CSR strategy with the title as chairman of the Tata global sustainability council (Wang, Tong, Takeuchi, and George 2016). In addition, over 4 Trillion dollars have been reported to be invested in socially responsible investment funds (Social Investment Forum 2014) and an estimated three-quarters of all S&P500 firms in the United States publish an annual CSR report (Governance and Accountability Institute 2015). Government of nations have even stepped in to mandate CSR contributions. In India, corporations must invest 2% of their net profits in CSR (Wang, Tong, Takeuchi, and George 2016).

Societal value is created and trade is equitable when corporate executives manage and treat all their stakeholders fairly (Freeman 1984). In addition to the shareholders, stakeholder theory asserts that there are other players who are also important to a firm. These players are termed stakeholders and should also be accorded the appropriate care and attention. These stakeholders are the employees, customers, suppliers, the financiers, and the people within the community whom the firm does business with. When all the stakeholders are treated fairly and become convinced of the firm's purpose of business, they will be motivated to support the firm's objectives and move in the same direction, thereby creating value for the firm and the society.

Bridoux and Stoelhorst (2014) reported on a case study exploring the management approaches undertaken by two airline firms, Southwest and RyanAir. Southwest doted on their employees, customers, and other stakeholders with great care and integrity while their competitor, RyanAir hired employees with poor packages, customer satisfaction reports were low, and other stakeholders were not accorded the due care and attention. It was found that Southwest continuously delivered strong financial results, built a strong brand, and carved a niche as a reputable budget carrier in the airline industry. While RyanAir's financial results improved in the short-term, RyanAir suffered significant impact and detriment to the brand, reputation, and financial performance in the long term (Bridoux & Stoelhorst 2014).

A firm's product acceptance could be influenced by customer values. Surroca, Tribo, and Zahra (2013) found that in the automobile industry, customers who are concerned with the protection of the environment may be more inclined to purchase from firms whose management philosophy explicitly professes their environmental strategy, goals, and objectives. To illustrate this point, Tesla, a recent entry to the auto industry, credited as an innovator and pioneer of electric cars has appealed to a wide range of auto consumers, not just the early adopters but also conventional

auto customers (Oremus 2013). Tesla's automobiles are not only free of carbon emission, they are also contemporary in style with state-of-the-art features.

Having acknowledged the necessity that firms should adopt positive CSR, how can a firm measure their CSR efforts and stakeholder contribution? Perrini, Russo, Tencati, and Vurro (2011) stated that CSR efforts are generally categorized into six main areas: (a) internal organization, (b) customers, (c) supply chain, (d) society, (e) natural environment, and (f) corporate governance. These efforts can be evaluated as the measure of corporate social performance (CSP). Corporate social performance (CSP) is defined as a measure that evaluates the performance of an organization in attending to the interests of the stakeholders (Gama Boaventura, Santos da Silva, & Bandeira-de-M 2012). Barnett (2007) described CSR as a snapshot of a firm's overall social performance at a particular point in time, a summary of the firm's aggregate social posture. According to Chang, Kim, and Li (2014), the increase on the public reporting of CSP in Fortune 500 firms from 2000 to 2012 has increased to 53% from close to zero. The emphasis on CSP as a contributor to overall corporate performance is hereby illustrated.

Having ascertained the independent variables that make up CSR, what are the measures that can be used to evaluate a firm's financial performance? The measure of a firm's economic or profitability position at any given time is defined as corporate financial performance (CFP). The measures for CFP for firms are not based on a single metric but a variety of financial metrics. There are two main categories: (a) accounting based, and (b) market based. Relative to the accounting based metrics, most researchers utilize the following metrics: (a) ROA (Berman, Wicks, Kotha, & Jones, 1999; Choi & Wang, 2009), (b) Return on Equity (ROE), or (c) Return on Sales (ROS) (Callan & Thomas 2009). Accounting based measures are based on evaluation of a firm's unique characteristics, and provide firm management and investors a good source of data about the firm's past performance (Bahhouth, Maysami, and Gonzalez 2014). ROA was the most commonly used metric to measure financial performance (Berman, Wicks, Kotha, & Jones 1999; Gama Boaventura, Santos da Silva, & Bandeira-de-M 2012; Tang, Hull, and Rothenburg 2012). In previous CSP-CFP studies, it was also found that ROA is the most commonly used metric to measure financial performance. In light of the validation by previous researchers that ROA is a reliable metric to evaluate firm financial performance, ROA as the measure of the dependent variable (CFP) was used in this research.

Research Method

The purpose of the research is to ascertain if there is a significant relationship between individual CSP variables with financial performance. First, the key social performance metrics will need to be established. Individual CSP variables was constructed through an analysis of seven independent categories: (a) corporate governance, (b) community, (c) diversity, (d) employee relations, (e) environment, (f) human rights, and (g) product quality. These independent variables established were ESG ratings obtained from the STATS data set at MSCI research, formerly known as the KLD database. Seven variables constituted CSP: CGOV, DIV, HUM, ENV, COM, PRO, and EMP. Within each CSP variable, there were multiple performance indicators. In total, there were 71 indicators scored. A combination of positive (or strengths) and negative (or concerns) performance indicators was built into each CSP variable. The ENV variable consisted of 16 positive indicators and seven negative indicators. An example of a positive indicator for ENV was Environmental Opportunities – Opportunities in Clean Tech, and a negative indicator was Toxic Emissions and Waste. The overall composition of the CSP variables and indicators was tabulated as follows: CGOV (two positive, four negative), DIV (two positive, two negative), HUM (two positive, three negative), ENV (16 positive, seven negative), COM (one positive, one negative), PRO (10 positive, six negative), and EMP (nine positive, six negative).

Firm CFP was the dependent variable, measured using ROA. The dependent variable, CFP, was measured using annual ROA data reported in the 1-year period. To gather ROA data, annual 2014 ROA from was mined from CSI Market, a research firm that specializes in the field of financial reporting. Data from 372 firms in the S&P500 database for calendar year 2014 was

subsequently collected. Because the data were collected from 372 firms in the S&P500 index, the results were suitable for generalization with the population of U.S. firms that employ more than 1,000 employees. S&P500 firms constitute approximately 80% of the market capitalization of U.S. firms (Silverblatt 2015), so the bandwidth of overall industry coverage was significant. A multiple regression analysis was conducted on the individual CSP independent variables and one dependent variable that defined CFP. Based on MSCI's methodology (MSCI 2016), individual performance indicators in the CSP variables were scored using a binary scale. If a company met the assessment criteria established for an indicator, then this was signified with a 1. If a company did not meet the assessment criteria established for an indicator, then this was signified with a 0. If a company had not been researched for a particular ESG indicator, then it was signified with NR (not researched). The following research question and hypothesis was adopted:

What is the relationship between specific CSP variables and CFP in calendar year 2014 in the S&P500 firms?

H₀: No relationship exists between any of the CSP variables and CFP.

$$\beta_1 = \beta_2 = \beta_3 = \beta_4 = \beta_5 = \beta_6 = \beta_7 = 0$$

H_a: A significant relationship exists between at least one of the CSP variables and CFP.

Not all the β_i ($i = 1, 2, 3, 4, 5, 6,$ and 7) are zero.

To test the hypothesis, data was analyzed using the following regression model:

$$CFP = \beta_0 + \beta_1 ENV + \beta_2 EMP + \beta_3 CGOV + \beta_4 PRO + \beta_5 COM + \beta_6 DIV + \beta_7 HUM$$

A level of significance $\alpha = 5\%$ was established to evaluate if the null hypothesis is to be rejected.

Results

A total of 454 firms were registered in the S&P500 on December 2014, not the entire 500 because 46 firms were eliminated due to liquidation, mergers, and acquisitions during calendar year 2014. The firms were classified into nine industry sectors based on the S&P500 industry classification: (a) consumer (CON), (b) energy (ERG), (c) financial (FIN), (d) health care (HC), (e) industrial (IND), (f) information technology (IT), (g) materials (MAT), (h) telecommunication (TELCO), and (i) utilities (UTI). Out of the 454 firm units entered into the database to extract the ROA data, 24 firm units were missing from the CSIMarket database. The data set was thus reduced to 430 units at this step of the data collection process. Firms that did not have CSP data records were then eliminated from the data set. In the process of cleaning and clearing the data set, the data set was further reduced to 372 firm units.

Table 1: Classification of Final Data Set by Industry Sector (n = 372)

Industry	CON	ERG	FIN	HC	IND	IT	MAT	TELCO	UTI
Firm units	84	31	65	39	49	52	22	4	26

Table 2: Descriptive Statistics of Final Data Set (n = 372)

	Industry	ROA	Aggregate CSP
N Valid	372	372	372
N Missing	0	0	0
Mean	3.96	7.06	3.40
Median	4.00	6.00	3.00
Mode	1.00	0.85	2.00
Std. Dev.	2.39	5.07	2.14
Min	1.00	0.07	0.00
Max	9.00	34.79	11.00

Table 3: Descriptive Statistics of CSP Variables (n = 372)

	ENV	COM	HUM	EMP	DIV	PRO	CGOV
N Valid	372	372	372	372	372	372	372
N Missing	0	0	0	0	0	0	0
Mean	1.01	0.12	0.18	0.82	0.00	0.38	0.89
Median	1.00	0.00	0.00	1.00	0.00	0.00	1.00
Mode	0.00	0.00	0.00	0.00	0.00	0.00	1.00
Std. Dev.	1.18	0.33	0.50	0.99	0.00	0.61	0.78
Min	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Max	5.00	1.00	2.00	5.00	0.00	3.00	3.00

To address the research question, a multiple linear regression analysis was conducted to evaluate the prediction of ROA (a measure of CFP) from a model with all CSP variables: ENV, COM, HUM, EMP, PRO, and CGOV across the data set of 372 units. The variable, DIV was removed as there was no available scoring provided at that point of time. The results of the multiple linear regression analysis found that the p value for the entire model, all independent CSP variables, was $> .05$. Thus, the null hypothesis for this model was not rejected. To further investigate if individual CSP independent variables were significant with CFP as the dependent variable (measured by ROA), a simple linear regression analysis was conducted for each individual CSP variable with CFP. The p values for all CSP variables were found to be $> .05$. Subsequently, an additional multiple regression analysis was undertaken to evaluate the prediction of CFP from a model with all independent variables (ENV, COM, HUM, EMP, PRO, and CGOV), with the data set segregated by industry sectors. Significant relationships were found in several sectors.

For the consumer sector, the individual variables revealed a significant relationship between EMP and CFP (p value was found to be 0.031, which is $< .05$). For the energy sector, the individual variables revealed a significant relationship between EMP and CFP. The p value was found to be 0.012, which is $< .05$, thus explaining a significant relationship. For the financial sector, the multiple regression analysis revealed that the overall regression model was significant ($p = 0$). Examining the individual variables revealed a significant relationship between four CSP variables (ENV, PRO, CGOV, COM) and CFP. The p values for ENV, PRO, CGOV, and COM were found to be .035, .022, .000, and .012 respectively.

Table 4: ANOVA Table-Specific CSP Variables By Industry Financial Sector (n = 65), y = CFP

Source	SS	df	MS	F	p value	R^2	Adjusted R^2
Regression	582.319	6	97.053	5.028	.000	.342	.274

Table 5: Coefficients Table- Specific CSP Variables By Industry Financial Sector (n = 65), y = CFP

Source	B	Beta	Sig.	Lower C.I.	Upper C.I.
(Constant)	8.022		.000	5.396	10.647
ENV	-1.417	-.241	.035	-2.731	-.102
COM	7.060	.332	.012	1.631	12.489
HUM	-4.059	-.195	.135	-9.425	1.307
EMP	.166	.032	.770	-.962	1.294
PRO	-2.552	-.290	.022	-4.719	-.384
CGOV	-3.076	-.460	.000	-4.715	-1.437

For the healthcare sector, the multiple regression analysis revealed that the overall regression model was significant ($p = .005$). Examining the individual variables revealed a significant relationship between CFP and two CSP variables: EMP and PRO. The p values for EMP and PRO were found to be .011 and .012 respectively.

Table 6: ANOVA Table-Specific CSP Variables by Industry Healthcare Sector (n = 39), y = CFP

Source	SS	df	MS	F	p value	R^2	Adjusted R^2
Regression	461.188	4	115.297	4.439	.005	.343	.266

Table 7: Coefficients Table- Specific CSP Variables By Industry Healthcare Sector (n = 39), y = CFP

Source	B	Beta	Sig.	Lower C.I.	Upper C.I.
(Constant)	5.758		.001	2.613	8.904
ENV	.783	.158	.327	-.815	2.380
EMP	2.663	.381	.011	.642	4.684
PRO	4.525	.379	.012	1.083	7.967
CGOV	-1.435	-.217	.166	-3.496	.627

In summary, significant relationship, albeit a negative relationship, was found between EMP and CFP, in the consumer and energy sectors. In the financial sector, a significant relationship was found between four CSP variables (ENV, PRO, CGOV, and COM) and CFP. Three CSP variables, ENV, PRO, and CGOV, were found to have a negative relationship with CFP. COM was found to have a positive relationship with CFP. In the healthcare sector, a significant and positive relationship was found between two CSP variables, EMP and PRO, and CFP.

Table 8: Regression Results on p and Coefficient Values, y = CFP

Variable	Overall (n=372)	Financial (n=65)	Material (n=22)	Consumer (n=84)	Energy (n=31)	Healthcare (n=39)
Agg. CSP	0.717 -0.045	0.015 -0.967	0.034 -1.115	0.100 -0.380	0.880 -0.043	0.127 0.698
ENV	0.443 0.176	0.035 -1.417	0.325 -1.004	0.324 0.381	0.955 -0.138	0.327 0.783
COM	0.359 -0.902	0.012 7.060	0.922 -1.291	0.199 -2.034	0.703 0.498	- -
HUM	0.848 0.126	0.135 -4.059	0.742 -3.325	0.321 1.253	0.617 -0.412	- -
EMP	0.491 -0.187	0.770 0.166	0.639 -0.956	0.031 -1.446	0.012 -4.448	0.011 2.663
PRO	0.290 0.473	0.022 -2.552	0.351 -1.985	0.411 -0.634	0.708 0.884	0.012 4.525
CGOV	0.189 -0.455	0.000 -3.076	0.791 0.863	0.090 -1.597	0.169 0.770	0.166 -1.435

Discussion

Based on the regression analysis results, in both the consumer and energy sectors, a significant relationship, albeit a negative one, between EMP and CFP was found. In the financial sector, the multiple regression analysis revealed a significant relationship between four CSP variables (ENV, PRO, CGOV, and COM) and CFP. In the health care sector, the multiple regression analysis revealed a significant relationship between two CSP variables (EMP and PRO) and CFP.

In the financial and the material sectors, the analysis consisted of 65 and 22 firms respectively. The top 65 global financial firms such as American Express, Bank of America, Goldman Sachs, Wells Fargo, and others consisted of the financial sector. Three CSP variables ENV, PRO, and CGOV, were found to have a negative relationship with CFP. Typically, the impact of environmental concerns such as toxic emissions and waste, packaging materials and disposal, and other environmental factors are minimal in a financial services industry. Therefore, the negative relationship between ENV with financial performance might not be a critical issue. However, the negative relationship between product quality and corporate governance with financial performance was concerning. Weber, Diaz, and Schwegler (2014) found that CSR performance related to corporate governance, business ethics, product responsibility, and labor issues were relatively lower in the financial sector compared with the other sectors. Moreover, deceptive tactics adopted in Wells Fargo's marketing and advertising of their financial products reported by the bank's customers in 2016 was another recent corporate scandal that plagued the financial industry. Corporate governance has been a prevalent issue within the financial industry after the 2007-2008 financial crisis. It could be inferred that firms might still be working toward economic recovery post 2007-2008 and that the investments in CSP might not yet have yielded the desired financial returns. However, the alternative argument could be that investments in CSP might be counterproductive in the relationship with financial performance, and consequently firm management might neglect the essence of product quality and business ethics in the pursuit of shareholder value. The CSP variable, COM, was found to have a positive relationship with CFP in the financial sector. More than 6 years have passed since the 2007-2008 financial crisis, and these results provided further insights, as well as questions, on the impact of each CSP variable on CFP. This is an industry that continues to be haunted by corporate scandals and controversies over the years and therefore would warrant further investigation.

In the consumer and energy sectors, a significant relationship, albeit negative, was found between EMP and CFP. The analysis for the consumer and energy sectors consisted of 84 and 31 firms respectively. The findings implied that positive contribution towards EMP might impact CFP negatively. The consumer sector is the largest subset in the study and consisted of the top global consumer and retail firms such as Starbucks, McDonalds, Nike, and others. To uncover a negative relationship between employee relations with financial performance was alarming because a firm's competitive advantage in the consumer retail industry is critically dependent on the contribution of employees. For example, Howard Schultz, the CEO of Starbucks, is a strong believer in building strong employee relations. Starbucks employees are treated with utmost respect, dignity, and offered generous health benefits. The plausible interpretation in this scenario is that the costs and investments on employee relations outweighed the financial performance measured during this period of analysis. Such an interpretation would mean that firms have taken the steps in developing employee relations, but financial performance has yet to be accounted for. Bridoux and Stoelhorst (2014) suggested that investment in employee relations leads to better corporate performance; therefore, the relationship between EMP and CFP should be investigated at a deeper level.

In the health care sector, a significant relationship between two CSP variables (EMP and PRO) was found with CFP. Both CSP variables were found to possess a positive relationship with CFP. In this sector, the analysis consisted of the top 39 health care firms such as Johnson and Johnson, Baxter International, United Health Group, Pfizer, and others. As health care is a service-oriented industry, the development of talent is a key success factor. Product quality in the area of providing competitive health care products and services would also enhance a firm's competitive advantage. The positive relationship between EMP and PRO with financial performance confirmed the hypothesis proposed in this paper.

The findings in the study were mixed and vary by industry sectors. A direct and causal relationship between CSP and CFP cannot be derived from these findings at this point. However, the implications derived in the discussion could provide managers and practitioners in the field a high-level insight of the CSP-CFP relationship with the potential to undertake further analysis or research. In addition, stakeholders responsible for the management of their respective sectors could

use the knowledge and data found in this study to take positive social change and actions so as to address relevant social performance issues. The findings from this study provide further impetus for continued research and investigation on CSR with financial performance.

Conclusion

In recent years, the discussion on CSR has surged and firm management are seen to devote more efforts and resources towards improving their CSR image. Although significant progress has been made, much effort remains. Even under such intense public scrutiny, product recalls in the electronics, automotive, and healthcare sectors have not declined. Quality issues persist due to the severe competitive pressure to meet time to market' product launches. Carbon emissions and environment pollution generated by industrial manufacturing, waste disposal, and automotive vehicles also continue to rise.

As compared with previous studies that commonly used aggregate measures of CSP, this paper studied CSP at a deeper level using individual variables and confirmed a significant relationship is evident between CSP and CFP in specific industry sectors. Since the data applied is cross-sectional i.e. one-year period, future research analysis can be undertaken with longitudinal data whereby CSP with CFP performance levels can be studied over a longer time period. Based upon the findings established in this paper, managers can identify the significant social variables in their respective industry sectors. their correlation with financial performance, and decide next steps on CSR strategy.

Although the findings in this paper are not conclusive, corporate social responsibility should nevertheless be a priority. Firms must stay committed to produce environmentally friendly and high-quality products. Strong corporate governance policies act as a safeguard. Develop and nurture strong working relations with the employees, support the community through charitable donations or participation in community projects are positive social actions. The safeguard of human rights in business operations and promoting diversity in the workplace are issues that should not be neglected. Across the global landscape, large corporations carry the clout, influence, and authority on social responsibility matters and thus have a very important moral obligation and responsibility to make this significant contribution to society.

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An Exploratory Look at a MENA Leadership Yardstick

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ABSTRACT: It is held that contemporary Western organizations would neither exist nor develop without leaders who efficiently and effectively manage. Researchers assert that in modern business enterprises, leadership requires the skill of working with and through people and other organizational resources to accomplish organizational goals. In addition, many business leadership studies posit that a key skill is that unique ability to work with the additionally challenging behavior of Millennials and Generation Z geared 24/7 towards accelerated development. Nonetheless, Drucker (2003) looking at modern organizations from a much broader perspective asserted that effective management in the post-industrial arena is probably the main resource of the developed world and the most needed resource in the developing world. This research paper explores perceptions of a leadership yardstick in small and medium-sized enterprises (SME) in the Middle East and North Africa (MENA). Ninety three participants drawn from different departments in business organizations were randomly selected as a sample. Two research questions were posed: (1) In your opinion, are business leaders operationally efficient in reaching goals in the SME where you work? (2) In your opinion, are business leaders effective in reaching goals in the SME where you work? The results found that Millennial and Generation Z business leadership in the MENA had a novel moral compass that networked, coordinated, cooperated and united employees into a communal context. Additional research is recommended to further explore and understand the modern MENA business leadership yardstick as it is the first worldwide horizontal generation that seems to be socially accountable.

KEY WORDS: Business Context, Leadership Yardstick, Millennials, Generation Z, Modern Morality, Active Investment, SME

Introduction

The modern world is challenging on all accounts. An economy recovering from recession, a bold boisterous, at times, extreme and rampant political climate, an openly mixed diversified demography, a geometric advancement of technological innovation, a colossal growth of wealth for a few, and a global entrepreneurial spree of success juxtaposed with ravaging war, terrorism, impoverishment, and massacres. Within this contextual whirlpool, cultures shift, society evolves, people adapt, and businesses align as leadership does. This research paper explores perceptions of a leadership yardstick by generational cohorts in small and medium-sized enterprises in the development sector of an emerging country in the Middle East and North Africa. This new generational cohort of leadership, Millennials and Generation Z, may be seen as a driving force with a new edge on leadership given their modern morality and horizontal integration.

The Lebanese youth belong to a rich diversified culture, but its people are Westernized even though they are from the Middle East and North Africa (Deresky 2017; Robbins, Coulter, Sidani, and Jamali 2015). Despite the stark confessional divisions of its nation and the markedly changed general and operating environment, Lebanon, a Mediterranean democracy, has a free market trade tradition and a robust history of private commercial activity. At present, Lebanon's economic freedom score is the 154th freest in the 2019 index; moreover, the economy's overall size has declined. This mirrors declines in judicial effectiveness, trade freedom, and investment freedom which outweighs the modest improvement in labor freedom. In addition, the political deadlock in 2018 meant that policy implementation and legislation on improving tax and the regulatory environment was mired as was attracting foreign investment and private-public partnerships (Heritage Foundation 2019; The World Bank IBRD-IDA 2019).

Given that the study explores business leadership benchmarks, the first part of the research paper reviews literature on small and medium sized enterprises and leadership, focusing on the leader's relationship among followers to attain organizational success. The second part of the literature reviews workplace generational cohort, Millennials and Generation Z, in terms of the changing nature of work, social media, and culture in the fourth industrial revolution. Following the

literature review, the research methodology adopted is described in terms of the purpose of the study, research questions, participants, procedures, research design, analysis of data and rubrics. Then in the fourth section, the research methodology discusses the results whereas the fifth section summarizes the research findings drawn from the study in the conclusion, clarifies the implications and limitations of the research, and proposes recommendations and future research.

Literature Review

Workplace paradigms have shifted, and benchmarks that clarify standards are continuously revamped. Nonetheless, within the business context, it is held that leaders build commitment, establish order and generate success (Robbins and Judge 2018; Dessler 2018). In what follows, literature is reviewed on small and medium sized enterprises, business leadership, the leadership yardstick, and generational cohorts.

All countries have a large amount of businesses as well as nongovernmental organizations many of which are SME. Modern SMEs are faced with economic, political, legal, cultural, social, technological, geographic, and infrastructure factors along with global competition, price pressure, customer demands, product customization, and supplier responsiveness. Intensified price pressure is met by continuous gains in productivity, operational efficiency, and flexible customer-responsiveness. Many of these business enterprises rapidly emerge and prosper; others incrementally gain a dominant place in the market; some take over the place of other older businesses (European Commission 2019). Astute managers of SMEs often find opportunities to provide complementary resources or capabilities that are translated into an innovative product offerings or a worldwide licensing agreement. In effect, many of these SMEs attain targeted organizational goals. Studies assert that such stellar performance in the marketplace is derived from business leadership, individuals who have generated and implemented strategy using operational efficiency and effective management targeting SME objectives competitively (Ferrell, Hirt, and Ferrell 2018, 244-246).

It is held that the greatest competitive advantage in business in the twenty-first century is its leadership: leaders who have risen, proven their professional competence, and broadened the strategic and cross-cultural horizon. Studies hold that business leaders understand that increased competition requires openness to new experience, rethinking older culturally conditioned modes of leadership and adopting a new business mind-set which means achieving organization's objective while achieving those of every employee--adopting a more flexible approach to leading, potentially a soft skill (Rao 2014; Friedman and Mandelbaum 2011).

Furthermore, studies show that SMEs are led by those who work with and through people as well as other organizational resources to accomplish organizational goals. Leaders use skills and intelligence to generate products and services that meet the needs of society such as wealth, knowledge, food, clean water, medicine, shelter, and education. Many do so by looking outward: Because they are open to new experience, they embed a learning culture and thus create a learning organization in which the value of learning, innovation, experimentation, flexibility, and initiative are embedded within the organizational culture (Daft 2017; Oehler, Stomski, and Kustra-Olszewska 2014; Muller, Gerald, and Turner 2012).

Such organizations rapidly use acquired knowledge from a variety of external sources as publication on results of applied research books, articles describing practitioner experiences, observation of best practices used elsewhere, purchasing the right to use specific knowledge from another institution, advice from consultants, joint ventures, and strategic alliances. Moreover, the process of examining and adopting best practices used in successful organizations is sometimes called benchmarks. Yardsticks, a genre of benchmark, is a standard of comparison used to judge the quality, value or success seen as beneficial in gaining a distinctive competitive advantage, commonly adopted by entrepreneurs in the marketplace (Certo and Certo 2016; Taschner 2016).

Consequently, business studies show that many leaders thoughtfully strategize the organization's future--short-term plans, medium range plans and long-term plans, a series of interconnected activities carried out across a defined period of time. Each of the plans and activities

is budgeted and carefully controlled, expending costly resources. Given the fierce competition in the marketplace, many times operational efficiency becomes the organizational muscle, the competitive edge, and its distinctive competence (Johnson, Whittington, Scholes, Angwin, and Regner 2018). Operational efficiency shows the capacity of the organization to deliver products or services to the end customer in the sought for condition or better. Moreover, operational efficiency is often perceived as how resources flow within the enterprises using a systems approach of inputs, transformation, and outputs. It is many times seen as how well enterprises use their input resources as land, knowledge, time, technology, human capital, capital, loan, and subsidies to produce output often calculated in terms of customer satisfaction, employee development, loan portfolio and/or profit. Moreover, many management researchers hold that operational efficiency is inextricably related to managerial effectiveness (Scarborough and Cornwall 2018; Yukl 2012).

In addition, business scholars hold that many leaders actively invest in four different managerial practices as they strategize modern enterprises: communication, traditional management, human resource management, and networking. Proactively, in communication, leaders engage in exchanging routine information, processing paperwork, conveying results of meetings, writing reports, developing financial reports, sharing information on the phone, and most importantly orally communicating face-to-face; second of all, in the traditional management, leaders employ four fundamental functions that are the foundation and framework of every small and medium sized enterprises (Ferrel, Hirt, and Ferrell 2018). In traditional management, leaders plan, organize, lead, and control: leaders define objectives, formulate and implement plans; then, leaders decide how organizational resources are invested—who does what, where and how as leaders instruct, guide, support, mentor, handle day-to-day operational crises, monitor performance data, and apply preventive maintenance; third of all, in human resource management, leaders motivate/reinforce, listen to suggestions and convey appreciation, allocate formal rewards, invest in group support, resolve conflict, appeal to higher authority as they train and develop followers; lastly, leaders network, socialize, interact with outsiders, and engage in politicking. In these managerial practices and managerial functions, leaders have shared meaningful time in making decisions with valued constituencies in the business context (Robbins, Coulter, and DeCenzo 2017; Feser, Mayol, and Srinivasan 2014).

It has been posited that decision making is one of the most important processes undertaken by leaders (Scandura 2016, 137-166; Yukl 2012). Much of what is done throughout the working day in terms of leadership involves decision making and implementation. Many leaders involve others in this important decision making process since it is seen as a political process in democratic countries whereby citizens have the right to influence a decision that will affect them. Many times, it is mandatory based on a hierarchical issue whereby decisions can only be approved and implemented when followers are involved in participative management (Javidan and Teagarden 2010). Furthermore, despite the trend towards competition and assertiveness in many industries, many organizations stress teamwork and compromise--horizontal collaboration and self-directed teams—approaches which are said to harness the best of future workers who are said to be technologically adept, multi-tasking, simultaneously extroverted with colleagues on social media, performing conscientiously in virtual offices 24/7, while reflecting professional decorum in face-to-face physical workplaces (Prensky 2016; Kowske, Rasch, and Wiley 2010).

It is held that the next generation firm is mainly made up of Millennials born 1980-1994 and Generation Z born 1995-2010 who have not only been strongly influenced by the economic, political, and technological upheaval in which they have grown up in but also by the social and cultural shift in society (The World Bank IBRD-IDA 2019; Heritage Organization 2019; Friedman 2008). Research holds that both of these generational cohorts share the ability to adapt to the global world and to its wireless internet ubiquity of total continuous connectivity. These cohorts are highly engaged in a virtual peer ecosystem, a broad based social media, and its aftermath (Bencsik, Juhasz, and Horvath-Csikos 2016, 90; Kowske, Rasch, and Wiley 2010).

In addition, research holds that Millennials are seen as idealistic, overly entitled, carving a lofty career whereas Generation Z are said to be a different “beast,” pragmatic, diverse, cautious,

hardworking, more respectful and mindful of the future having witnessed two recessions and 9/11 (Iorgulescu, 2016; Mert 2015; Twenge 2014; Deal, Altman, and Rogelberg 2010). Research studies also posit that Generation Z are highly charged; imploding, uploading, re-thinking, re-crafting, and leveraging new practices in the modern workplace (Chillakuri and Mahanandia 2018; Cameron and Pagnattaro 2017, 317).

Given this overview, is it feasible to hold that a leadership yardstick constituted by operational efficiency and managerial effectiveness may be held as a benchmark to lead a challenging generational workforce?

Methodology

Using descriptive research methodology, the case study explored perceptions on a leadership yardstick in different SMEs in the local context of one emerging country in the MENA. In what follows, the methodology section covers the purpose of the study, research questions, participants, the survey, the procedures used in the study, the research design, the analysis of data used and, lastly, rubrics as descriptive scorings, schemata, are defined by criteria, indicators and scales to assist in the analysis of participant' perceptions.

The purpose of the study was two-fold: (1) to explore whether local business leaders are perceived to be operationally efficient; (2) to explore whether local business leaders are perceived to be effective. In line with that, two research questions were generated in order to explore perceptions of a leadership yardstick in the local context:

- Research Question One: In your opinion, were business leaders operationally efficient, in the SME where you work?
- Research Question Two: In your opinion, were business leaders effective in the SME where you work?

The study was conducted on a convenience sample in which the participants were diversified, composed of 47 males and 46 females attending university courses and employed in the business industry. The age range was between 22-38 years. As employees in the business industry and as graduate and undergraduate courses in different Schools of Business in more than one campus in different districts across the country, they were at a point where they had both pragmatic and theoretical knowledge of the concepts being assessed. The survey they filled out included an assurance of confidentiality related to information shared and a request that the information on participants' perception of the leadership yardstick was an honest and pragmatic appraisal. Given their understanding of the external context, and assured of confidentiality, the participants were asked to be open, honest, and explicit. They were given 20 minutes to answer the survey which included three parts. Preliminary questions covered general demographics and five questions related to the content area of which three open-ended question required reflection and discussion and two asked the participants to rank variables on the Likert scale from 1-5 where 1 had the weakest value and 5 the highest.

Moreover, the research design applied was a qualitative study exploring perceptions of a leadership yardstick in terms of two measures, operational efficiency and managerial effectiveness, in a localized context, SMEs in the MENA. Descriptive statistics were used to explore the data collected on participants' perception of a leadership yardstick. As a result, five variables were explored: a leadership yardstick, efficient leadership, effective leadership, Millennial leadership, and Generation Z leadership.

- Leadership Yardstick: The participants were asked to share their opinion on two pragmatic variables, operationally efficient leadership and managerially effective leadership which form the benchmark, the leadership yardstick.
- Efficient Leadership: The participants were asked to share their opinion on how operationally efficient their leader was in one inclusive efficiency index based on empirical evidence.

- **Effective Leadership:** The participants were asked to share their opinion on how effective their leader was in one inclusive effectiveness index based on empirical evidence.
- **Millennial Leadership:** The participants were asked to share their thoughts on whether foreign perceptions of Millennial leadership were locally applicable
- **Generation Z Leadership:** The participants were asked to share their thoughts on whether foreign perceptions of Generation Z leadership were locally applicable.

Furthermore, two rubrics were developed to assess the leadership yardstick: both rubrics reflected criteria, indicators, and scale.

- **Operational Efficiency Rubric:** The rubric was made up of two measures. First, the leader's operational efficiency was rated on the Likert scale from 1-5 where 1 was the lowest score and 5 was the highest. The score represented the optimal use of organizational resources that included knowledge, information technology, capital, raw material, time, land, and human resources. Second, the leader's operational efficiency was described based on empirical evidence drawn from the workplace.
- **Managerial Effectiveness Rubric:** The rubric was made up of two measures. First, the leader's managerial effectiveness was rated on the Likert scale from 1-5 where 1 was the lowest score and 5 was the highest score. The score represented the optimal use of the four managerial functions of planning, organizing, influencing, and controlling to attain SME objectives. Second, managerial effectiveness was described based on empirical evidence drawn from the workplace.

In short, having reviewed the relevant literature related to the leadership yardstick and explained the case study methodology undertaken, in what follows, the results are discussed.

Results and Discussion

The paradigm seems to have shifted. *What Used to be Us* (Friedman and Mendlebaum 2011) has changed; what was *Hot, Flat, and Crowded* (Friedman 2008) is now socially accountable and horizontally integrated. Exploring the MENA yardstick opened a broader conception on what is really involved in leading SMEs in emerging countries; Now *Managing in the Next Society* (Drucker 2003) seems to be the most sought for resource only when it embraces the first international horizontal generation's modern morality.

The findings drawn from the study ascertain that local leaders were perceived to be operationally efficient (3.48 on a 5 point Likert scale) and managerially effective (3.74 on a 5 point Likert scale). Participants, who were mainly Generation Z (95 %) and were performing the "rites of passage" of job-entry lower-level managerial jobs at the bottom of the local SMEs, perceived local business leadership, who were Millennial and Generation Z, as good or above average. The results of Research Question One, "In your opinion, were business leaders operationally efficient in the SME where you work?" showed that MENA local leaders were seen as operationally efficient (3.48 on a 5 point Likert scale) and is reflected in the randomly selected participants' direct quotes on local leadership.

1. "Yes, most of the leaders in Lebanon are quite efficient. They do things in the right way. In my personal experience, I could see the efficiency level of leaders in a particular company when I worked as an intern."
2. "No managers bend the rule; waste resources; don't spend their time wisely."
3. "Yes, managers in most cases are efficient. For example, I once gave feedback at a restaurant. The restaurant manager used my feedback/this resource to contact me and immediately resolved the issue."
4. "No, not really because they don't always take into consideration expert opinions to undertake a solution that best serves their interests; For example, waste management: Environment engineers are not taken into consideration."

5. “Yes. Even though business leaders have limited resources, are able to do things right. Best use of most of resources, difficult with political situation.”

The results of Research Question Two, “In your opinion, were business leaders effective, reaching targeted objectives, in the SME where you work?” showed that MENA local leaders were perceived as being effective (3.74 on a 5 point Likert scale) and is reflected in the randomly selected participants’ direct quotes found below.

1. “Leaders aim to be effective rather than efficient since their primary goal could be to reach the highest level of success possible. They wouldn’t mind spending more money to reach their objective. An example could be a small bakery shop spreading flyers across the neighbourhood to inform people of their products.”
2. “As business leader’s effectiveness, I think Lebanese firms are good in doing the right things because they like to profit. For example, services provide for customers in Lebanon is one of the best, like waiters, salespeople, insurance companies. They are quick and always smiling. Follow procedure.”
3. “Yes and No. The mind set is to just get the job done: follow orders. Then they receive fast bonuses and upgrades.”
4. “Yes. When a manager at a restaurant apologizes and serves a free desert because the service was late. I also know many people who own small businesses that are successful. They accomplish their goals since they are effective and do lots of innovation from time to time.”
5. “Yes because they mostly end up reaching the goal in spite of all the difficulties in Lebanon but waste lots of resources. For example, the Matn highway, the goal was to build this highway to make it easier and faster to reach the mountain. The goal was reached but resources and design are not that efficient; there is traffic.”

As shown in the examples above on Research Question One and Research Question Two, it was found that in traditional centralized or contemporary decentralized SMEs in Lebanon, the yardstick was applicable. It can be seen that the participants voiced their thoughts and provided pragmatic applications on whether their leader’s performance was operationally efficient and effective; moreover, the observations and explorations showed linear assessments that were specific, measurable, attainable, relevant, and timely.

It seems that leaders in tall family-based SMEs exercised strict control asserting that followers should be told *what to do* and *how to do it*. Most of these leaders were Millennials who, as they grew up were repeatedly told, “Believe in yourself; you are special” (Twenge and Campbell 2010; Myers and Sadaghiani 2010). Inside the SME, it seems Millennial leaders maintained rigid hierarchies and micro-managed the managerial functions of planning, organizing, leading and controlling. Moreover, Millennials structured jobs, fixed work processes, and managed procedures. Inside most of these SMEs, bureaucratic power was not distributed; authority was hoarded, yet these traditional antiquated system were able to sustain leadership and financial mobility (Chillakuri and Mahanandia 2018; Deresky 2017; Robbins, Coulter, and DeCenzo 2017). On the other hand, inside other SMEs, participation linked authority to empowerment, follower to leader and follower to follower in a horizontal continuum of decentralized decision making where participants functioned as a community, cooperating, collaborating, and compromising.

This new generational cohort, mainly Generation Z, the iGen (Twenge 2018), impact and is impacted by operational efficiency and managerial effectiveness in the MENA and internationally as was reflected in the review on literature (Ferrell, Hirt, and Ferrell 2018; Cameron and Pagnattaro 2018; Bencsik, Juhász, and Horváth-Csikós 2016; Muller, Gerald, and Turner 2012). It seems that in the modern workplace, cohorts engendered a communal identity. Mainly, Generation Z leaders/followers had adopted multiple approaches to integrate since they were technologically adept, multi-tasking participants who were on social media, in virtual offices, and face-to-face in the workplaces what Prensky (2018) called the first international horizontal generation.

1. "Generation Z leaders have characteristics of confidence; make decision that affect company; good control over their employees; monitor tasks; good way or not. Moreover Lebanese leaders are collaborative since they work with their employees as a team and inspire or encourage them to get their task done perfectly."
2. "Yes, especially restaurants employ Millennials and even more Generation Z. These leaders are similar to an American leader, open to more information. Lebanese are worldwide. Customer feedback is proving that all managers will do whatever it takes to satisfy customers. Leaders are becoming similar everywhere."
3. "I am a floor manager. I am not egocentric; I am open to suggestions and innovations"
4. "Millennial. Yes born in a period where they should be more responsible So they had to be self-confident and self-absorbed, reach goals even where it was harder to do it, be best persons to do the job, use knowledge, use technology in their work."
5. "I met a Millennial gym owner who is a female body builder; expanding her business; opening new gyms; working with others not self-absorbed. In fact she acts like a Generation Z leader. I believe she has the qualities of an American Generation Z leader because she runs her business very efficient very effective working on growth; maintaining sustainability."

On the other hand, the results show that many of the generational cohorts perceived a new work environment in which *the why* and *the how* were conceptually challenging This paradigm shift unnerved them. The genre of the workplace had changed: the nature of the work shifted away from mundane jobs of stocking shelves, filing and photocopying paperwork to more complex ones of performing research, handling complicated data, and using smart technology. Leaders and followers were confronted with a growth in highly cognitive non-routine work worldwide (Gordon 2016) as is aptly posited by Kuhn, "When the transition is complete, the profession will have changed its view of the field, its methods, and its goals" (1970, 84-85). Yet the results show that notwithstanding the paradigm shift, Millennials and Generation Z were engaged, reflecting soft skills (see quotes above).

The results show that apart for ascertaining the leadership benchmark, it was found that the generational cohorts had a thirst for adventure, an openness to experience, and a capacity to change, "I am open to suggestions and innovations" (see quotes above). Notwithstanding that Generation Z's highly sought for entry-level position in which as a novice, the participants were focused on learning professional skills, upgrading and proving their credentials; notwithstanding that shifts in work and entry level expectations in an economy struggling with recession were factors the participants were highly aware of and reacted to (Toth-Kaszas 2018); and notwithstanding the fact that Generation Z in general was ranked at the very bottom of a very tall paternal nepotistic MENA hierarchy that traditionally established a stable secure career as that of the Millennials in the increasingly sophisticated value chains in the MENA (Deresky 2017; Robbins, Coulter, Sidani, and Jamali 2015), it seems that Generation Z was perceived as socially and mutually accountable.

To sum up, what can be drawn from the results is that the yardstick reflected skilled leaders who successfully steered businesses in turbulent competitive times guiding and supporting the entitled Millennials and the less rebellious other-centered Generation Z workforce.

Conclusion

In conclusion, the paper's main contribution to the field of study lies in ascertaining the value of the leadership yardstick and in uncovering new socially accountable ubiquitous digital natives. Using descriptive research methodology, the study explored business leadership yardstick perceptions in MENA focusing on Millennials and Generation Z and found that contemporary SMEs would neither exist nor develop without leaders who embrace modern morality and are operationally efficient and effective.

The future implications of the study are for those making active investment in the operating or internal environment: Within the task environment, stakeholders might take advantage of the pragmatic and theoretical information on leading the new workforce. Given that the study provided ample information on the operational efficiency and effectiveness of Millennial and Generation leaders/followers, companies planning to invest in the MENA might apply it to harness the

narcissistic Millennial and the tolerant social-reformist Generation Z and build a healthy vibrant community in the service or industrial sector. Moreover, from this exploratory study, local leaders can take steps inside their business to bridge the mind-set and build closer, intimate, wired networks, bridges, liaisons, and 24/7 connectivity to foster mentoring relationship of new leader-follower and new follower-follower.

With that in mind, it should be noted that the study met a few limitations. The research design was descriptive with the purpose to explore perceptions using a leadership yardstick as an index of operationally efficiency and managerial effectiveness met with restricted access to participants. Unfortunately, administrators in local organizations were reluctant to provide open access to information and controlled access to its students and employees. Furthermore, given that MENA culture in general is a closed, contained, inclusive, and private and the research was exploratory, access to a forthright reflection of leadership may have been curtailed. As such, using a convenience sample of 93 helped minimize the secrecy and control dilemma.

Given that the results of this exploratory research were indicative of perceptions of leadership yardstick drawn from Millennials and Generation Z, young business people in SMEs in the MENA, the results point to the need for additional research to be undertaken to broaden the knowledge platform for leaders to optimize their yardstick. In line with that, potential areas of future research lie in five areas: (1) developing emotional intelligence to better understand follower-leader connectivity, (2) enhancing follower people skills as MENA generational cohorts are apprehensive about their interpersonal relationship especially those that are face-to-face, (3) providing a better work/life balance as time devoted to work/followership and valued personal time, (4) incorporating and regularly upgrading emerging social and digital tools for the always-connected Generation Me and iGen (Twenge 2018; Twenge 2014) and finally, (5) ensuring multiple pathways for career advancement for generational cohorts.

In conclusion, the focal area of leadership research as always is the heartbeat of business organizations, its human capital, ever diversified, ever challenged, and ever troubled.

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Irrationality of Investment Funds Managers in the Light of Available Information – Case of Poland

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ABSTRACT: The purpose of the paper is related to understanding the preferences and motivations determining the decision making process of investment funds managers on the Polish market. Surveys concerning the investment environment, factors influencing decisions, as well as heuristics and decision traps related to investment funds managers behavior confirm the thesis that they reaction to information appearing on the market, with particular emphasis on messages from the Central Bank of Poland NBP is related to behavioral errors. The research is done on the Polish market, fast developing economy after system transformation, where the investment processes are becoming very important factor of the capital transfers mechanism. The value added of the paper is related to the direct surveys of investment funds managers in the context of the decision they make and heuristics they are affected by.

KEYWORDS: investment funds, managers' irrationality , behavioural finance, central bank

Introduction

There is a wide scope of evidence related to the overreaction and under reaction of the market (Barberis, Shleifer, Vishny 1998) on the available information indicating, that the model of making decisions is not a simple project but more complicated process. The dominant paradigm regarding the response of asset prices to new information (first articulated by Fama, 1971) is that, since markets are efficient, asset prices should react immediately and in an unbiased manner to new information.

There are many pieces of information coming from the local and international institutions, but they are not coordinated and there are periods with more and less intensive news appearing on the market. That news affect rates of return of financial assets and volatility in a positive and negative way. Decisions that investors make on the market are not only the result of the external information but also the internal motivations and preferences that affect the utility.

Most of the papers focus on the process of communication of central banks and the market reaction in the economic outcome, mostly inflation targeting indicating, that the reaction is not rational. Deeper analyse of the investment process that market participants are involved in, can help to answer the question whether behavioural traps can affect it. Investment funds managers manage, as it was realized in the survey that will be presented in this paper, the amounts of hundreds of millions of Polish zlotys or US dollars and they reactions on the information appearing on the market can influence the assets price movements. A lot of information comes from the NBP and other international financial institutions and databases providers. It is not possible to use all of the information available on the market and that is why funds managers are asked in the surveys about the sources and their importance.

The goal of this paper is related to the relationship assessment that can exist between personal behaviour of funds managers and professional activity related to the capital they invest. To analyse this problem and present the conclusions the following sections of the paper will be presented: first the problem and literature will be analysed, in a second section methods and data will be presented, next the results and in the end the summary will be discussed.

The results of this paper will help to explain the reaction of the market on the NBP messages concerning the reaction of funds managers in Poland, the economy after transformation that is the leader in European Union due to the GDP growth rate.

Problem and Literature Overview

With earlier indications related to the rationality in economy, the behavioral finance has it's beginning in prospect theory developed by Kahneman and Tversky (1979). Going further investor psychology

factors on the asset pricing and portfolio investment decision were developed by Shefrin and Statman, who put forward the Behavioural Asset Pricing Model (BAPM) and Behavioural Portfolio Theory (BPT) in 1994 and in 2000 successively. Apart from theories arising to explain the lack of efficiency of the market, the individual heuristics affect decisions that are made by market participants in relation to the information available on the market.

The central bank communication has its target that is inflation in most of cases, that affects financial instruments prices, mostly the exchange rates due to the purchasing power parity. Investors reaction is based on the heuristics, but from the other hand central bank can adjust these heuristics through manipulation that takes into account behavioral errors. Inflation targeting may be the subject of this manipulation. The information provided by central bank may be more or less direct and behavioral economy can explain it and can affect the way investors will interpret it under specific heuristics. Bank of England Governor Mervyn King has realized in 2005 that "rational optimising behaviour is too demanding and it could reflect the use of heuristics". Central bank plays a role in shaping beliefs about the heuristics, it also plays a potentially important role in anchoring expectations (expected inflation to be equal to target). From the other hand Bernanke (2005) pointed out that when the public does not know but instead must estimate the central bank reaction function, there's no guarantee that the economy will converge to the rational expectations equilibrium because the public learning process affects the economy behaviour. The feedback effect on learning of the economy can lead to unstable or indeterminate outcomes – which effective communication by the central bank can help to avoid (Eusepi, Preston 2007). The process of providing information by central bank is commonly described (Blinder et al 2008) while the process of transforming and using this information is not.

According to the World Bank News in the year 2013 institutional investors based in the OECD countries managed nearly \$100 trillion worth of assets. There are requirements that investment funds managers should follow like to invest for the long term, follow market fundamentals, provide liquidity to countries and companies overlooked by other financial markets participants and reduce many of the shortcomings of the financial system. The significance of this group of investors is still relatively small in some emerging markets but they are nevertheless important players and therefore, they are subject of numerous research studies which document their positive role but sometimes also negative effects of their actions (Brzezczynski et al. 2015). Regarding the behavioural errors affecting the institutional investors there are some studies examining investor sentiment in Taiwan. Liao et al. (2013) investigate the trading behaviour of foreign institutional investors in the Taiwanese stock market.

Methods and data

The survey is based on a questionnaire divided for two parts. Part one is related to the information set and strategy indicators that influence the decisions of funds managers operating on the Polish capital market in the field of investments. This part focus on the NBP information that is taken into consideration in the investment process. Second part of the survey is related to the behavioural research with task based on experiments provided in behavioural economics literature.

Task 1 measures the effect of certainty, or tendency to reevaluate certain events in relation to highly probable events. This task measures whether a person will choose a certain profit, but with a lower expected value (Option B - vulnerability) or choose an option more rational, potentially higher expected value (A) (Kahneman 2003).

Task 2 measures the reverse effect, which means that most people are characterized by risk aversion in the area of profits and risk in the area of losses. Selecting option A the tested person is susceptible to the reversal effect, especially when he chose answer B in Task 1 (Kahneman 2003).

Task 3 is a task for the effect of isolation (framing), that is related to different forms of presenting the same decision problem that may affect other decisions of the respondents (Kahneman 2003).

Task 4 is a task for the disposition effect measuring the tendency of investors to sell assets that have increased in value, while keeping assets that have dropped in value with the only rational option A, while others mean the effect of disposition. It may also examine the degree of "severity" of this disposition effect (Szyszka 2009).

Task 5 is a task for overconfidence, the so-called the effect of being better than average. Here, it is analyzed whether the respondents in various spheres will consistently indicate that they are above-average better in a given field.

Task 6 is a task measuring the manifestation of overconfidence called "the illusion of control" which is based on the illusory conviction of many people that they can affect the course of future events of a random nature (Heath, Tversky 1991).

Task 7 is measuring the paradox of Ellsberg, analyzing the phenomenon of aversion to ambiguity (Segal 1987).

Task 8 is a modified version of the Linda problem assessing the representativeness heuristics (Tversky, Kahneman 1983).

Task 9 is a task for the sunk costs, managers often face (Szyszka 2009).

Task 10 is a task for fast and short thinking affecting the decisions (Kahneman, Egol 2011).

Joining the part related to the information and strategies influencing the decision of managers and the behavioural part enabled to test the hypothesis referring to the relationship of these parts of the survey.

H0: variables (heuristics and aspects related to the decision process) are independent,

H1: variables are not independent.

The verification of hypothesis that are formulated above will be done with the Chi Sq. test that is statistical test where the sampling distribution of the test statistic is a chi-squared distribution when the null hypothesis is true. The chi-squared test is used to determine whether there is a significant difference between the expected frequencies and the observed frequencies in one or more categories.

Results

The results of the survey are presented in this part of a paper. Number of surveyed fund managers is 17 and all of them were men. In Table 1 there are frequencies of answers given by investment managers regarding the information they use in their investment process together with strategies indicators.

Table 1. Strategies and information related to the investment process on the Polish market

	No. of observations
No. of surveyed	17
Investment horizon	
< 1 year	3
1-5 years	12
5-10 years	0
10-20 years	0
20 and more years	0
Strategy	
Aggressive	7
Sustainable	9
Conservative	9

NBP information usage frequency	
interest rates	17
money supply	11
reserve money	7
balance of payments	12
official reserves	9
liquid assets and liabilities in foreign currencies	7
foreign debt	12
international investment position	10
Other	3
Opening of investment position	
before the announcement of new information by CB	7
after the announcement of new information by CB	10
Market of investment	
equity market	9
bond market	10
foreign exchange market	8
money market	6
other markets	1
NBP information influence	
very important	1
moderate	9
none	7
Ultra short time horizon	
very important	0
moderate	4
small	7
none	6

Regarding the time horizon 3 investors invest in the period shorter than one year while majority of 12 investment funds managers invest in the horizon of 1-5 years. Nobody answer to the option longer than 10 years. Strategy distribution is almost the same with aggressive pointed out by 7 investors, sustainable by 9, the same as conservative. NBP information is dominated by interest rates announcements that is pointed out by everybody. 7 funds managers open their investment position before the announcement of new information made by NBP and 10 do it after the announcement. Most of funds operate on the bond market with the equity market on the second place. The NBP information importance is rather moderate for surveyed funds managers and the ultrashort time horizon investment, too.

In the second part of the survey the behavioural questionnaire was applied and answers to the questions help the identification of errors that are presented in the Table 2.

Table 2. Behavioural errors survey results

	A	B	AB	BA	AA	Total
Task 1	12	5				17
Task 2	9	8	9	5	3	34
	AB	AA	BB	CC	AC	
Task 3	3	4	2	4	1	14
	A	B	C	D		
Task 5	5	1	2	7		15
	Yes	No				
Task 5	55	45				100
	A	B				
Task 6	6	9				15
	AA	AB	BB			
Task 7	11	2	1			14
	A	B				
Task 8	10	7				17
	A	B				
Task 9	10	7				17
	0,05	0,1				
Task 10	15	2				17

Analysing the relationship between the answers related to the information and strategies performed by fund managers with their heuristics with Chi Sq. test the following results were achieved (Table 3).

Table 3. Problems tests results

	Problem 1	Problem 2	Problem 3	Problem 4	Problem 5
Chi Sq.	0,59	0,01	0,51	1,00	0,59
Significance level	0,05	0,05	0,05	0,05	0,05
Degrees of freedom	2	8	2	24	1
Statistic level	5,99	15,51	5,99	36,42	3,84
H0 or H1	H1	H1	H1	H1	H1
	Problem 6	Problem 7	Problem 8	Problem 9	
Chi Sq.	0,38	0,00	0,87	0,00	
Significance level	0,05	0,05	0,05	0,05	
Degrees of freedom	1	8	4	3	
Statistic level	3,84	15,51	9,49	7,81	
H0 or H1	H1	H1	H1	H1	

Problem 1: The effect of certainty and the reversal effect in the area of prospect theory (BA response) with rational approach (AB) is related to the investment strategies (Tasks 1 and 2).

H0 should be rejected and H1 accepted, variables are not independent. The prospect theory and the effects of certainty affect the strategies performed by investment funds managers.

Problem 2. Framing effect (answers AB or BA in Task 3) is related to the NBP information that are taken into consideration.

H0 should be rejected and H1 accepted, variables are not independent. Framing effect is affecting the set of information and its value taken into consideration by the investment funds managers.

Problem 3. Disposition effect (answers BCD in Task 4) is related to the investment horizon.

H0 should be rejected and H1 accepted, variables are not independent. Disposition effect is affecting the investment time horizon.

Problem 4. Overconfidence effect (no of YES answers in Task 5) is related to the macroeconomic information announced by the NBP.

H0 should be rejected and H1 accepted, variables are not independent. Overconfidence effect is related to the macroeconomic information taken into consideration by investment funds managers.

Problem 5. Control illusion effect (answer A in Task 6) is related to the investment decision that can take place before or after the CB announcement.

H0 should be rejected and H1 accepted, variables are not independent. Control illusion influences the investment decision that can take place before or after the CB announcement.

Problem 6. Aversion to ambiguity (answers AA in Task 7) is related to the investment decision that can take place before or after the CB announcement.

H0 should be rejected and H1 accepted, variables are not independent. Aversion to ambiguity affects the investment decisions the investment decision that can take place before or after the CB announcement.

Problem 7. Representative heuristics and conjunction error (answer A in Task 8) is related to the macroeconomic information taken into consideration.

H0 should be rejected and H1 accepted, variables are not independent. Representative heuristic and conjunction errors affect the macroeconomic information taken into consideration.

Problem 8. Sunk cost error (answer B in Task 9) is related to the market investors make their decisions on.

H0 should be rejected and H1 accepted, variables are not independent. Sunk costs error affect the decisions on the chosen markets.

Problem 9. Fast and slow thinking error (answer “10 cents” in Task 10) is related to the ultrashort periods that investors make decisions in.

H0 should be rejected and H1 accepted, variables are not independent. Fast and slow thinking affect the the ultrashort periods that investors make decision in.

In all surveyed problems the variables are not independent and we can come to the conclusion that behavioural heuristics influence the decisions of investment funds managers.

Summary

The problem of Polish investment funds managers and the behavioural errors affecting them together with information they take into consideration and strategies indicators was analyzed. Investment funds managers in Poland are certified individuals with ability to make decisions on capitals invested in trusts dedicated for the common investment. Making decisions on amounts between hundreds of million to some billions of Polish zloty they they are affected by, as it was shown in the survey, heuristics, perhaps losing or earning returns as a result of the market imperfection on its own, but their personal approach to reality. In Poland authorities focus on the professional skills not taking into account the behavioural aspects that can influence the decisions of investment funds managers.

Next research questions are related to other markets whether the influence of behavioural errors on the investment process exist and how to solve this problem in the light of a capital market where institutional investment drives the economy and is related to the future rates of return of the funds participants. Applying the automatic investment strategies may be partially a solution to this problem.

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On Artificial Intelligence's Razor's Edge: On the Future of Democracy and Society in the Artificial Age

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ABSTRACT: The introduction of Artificial Intelligence (AI) in our contemporary society imposes historically unique challenges for humankind. The emerging autonomy of AI holds unique potentials of eternal life of robots, AI and algorithms alongside unprecedented economic superiority, data storage and computational advantages. However, the introduction of AI to society also raises ethical questions. What is the social impact of robots, algorithms, blockchain and AI entering the workforce and our daily lives on the economy and human society? Should AI become eternal or is there a virtue in switching off AI at a certain point? If so, we may have to define a 'virtue of killing' and a 'right to destroy' that may draw from legal but also philosophical sources to answer the question how to handle the abyss of killing with ethical grace and fair style. In light of robots already having gained citizenship and being attributed as quasi-human under Common Law jurisdiction, should AI and robots be granted full citizen rights – such as voting rights? Or should we simply reap the benefits of AI and consider to define a democracy with different classes having diversified access to public choice and voting – as practiced in the ancient Athenian city state, which became the cradle of Western civilization and democratic traditions spread around the globe. Or should we legally justify AI slaves to economically reap their benefits, as was common in ancient Rome, which became the Roman Law legal foundation for Continental and some of Scandinavian Law traditions and which inspired very many different codifications around the world. Finally, we may also draw from the Code Napoléon, the French Code Civil established under Napoleon in 1804, which defined male and female into two classes of human with substantial right and power differences, and – to this day – accounts for one of the few documents that have influenced the whole world in legal and societal ways. In asking critical questions and unraveling the ethical boundary conditions of our future artificial world, the paper thereby takes a descriptive – afar from normative – theoretical angle targeted at aiding a successful introduction of AI into our contemporary workforce, democracy and society.

KEYWORDS: AI, Artificial Intelligence, Athenian city state, Code Civil, Code Napoléon, Democracy, Right to destroy, Roman Law, Slavery, Society, Workforce

1. Introduction

Artificial Intelligence (AI) poses historically unique challenges on humankind. The article addresses the introduction of Artificial Intelligence (AI) in our contemporary society. What is the impact of robots, algorithms, blockchain and AI entering the workforce and our daily lives on the economy and human society? As emerging globally trend, AI is extending its presence at almost all levels of human conduct having raised both expectations and concerns (Cellan-Jones 2014; Sofge 2015; United Nations 2017). AI will hold the potential to replicate human existence but grant eternal being.

On innovation's razor's edge of 24/7 working robots that can live eternally and have no feelings, ethical questions arise whether robots, algorithms and AI should be granted citizenship and legally be considered as quasi-human beings — a technocratic and legal trend that has already started (Weller 2017). As AI is currently reaching status of actual personhood – e.g., via citizenship and quasi-human rights applied in the Common Law but also Roman Law territories of the US and the EU – this legal personhood raises challenging legal and ethical questions (Browne 2017).

The novel predicament between eternity and overpopulation hence calls for revising legal codes for killing, which would allow switching off AI at a certain point to curb overpopulation and harmful behavior. But how to argue legally the right to kill? And when to pull the plug? How do we switch quasi-human intelligence off when misbehaving or if AI life has become a burden that cannot be borne by society? How to balance robots living forever in light of overpopulation and finite resources? We may want to draw on the ethics of dying and virtues of killing as well as suicide literature to answer these novel questions. The proposed frame offers innovative insights for legal conducts but also overlapping generations relationships. The nature of algorithms and digital technology being global demands for an international response, potentially via international law supremacy principle.

Is feelingless AI vulnerable and prone to become enslaved or will the computational power and energetic capacities of robots outperform and enslave humankind? Should we have a democracy with a diversified populace of human enslaving robots? In light of robots already having gained citizenship and being attributed as quasi-human, should AI and robots be granted full citizen rights – such as voting rights? Given the humane fallibility and biases, would a rational AI agent make better democratic choices? Should AI therefore be used for governance as for being unsusceptible for bribery and fraud, or does the installment of algorithms in leadership positions imbue dangers to humankind? How should we organize the human-led evolution of AI production and the blend of human-AI enhanced workforce? Or will algorithms in charge put humankind in danger? And what is it that makes human humane in the artificial age?

The paper proposes to investigate the economic, legal and societal impact of AI from an ethical perspective. The current legal status of robots being referred to as quasi-human will be discussed as for implications to society and democracy.

The power divide imperatives between human and AI robotics will become subject to scrutiny in light of historic examples of early forms of ancient Athenian democracy and Roman Law civilization that legally allowed for slavery but also with an eye on French Napoleonic code civil that established a supremacy of a man over his wife and children with attention to possession and property.

Humanness will be highlighted as key to future success in the age of AI and automated control. The proposed research will thereby draw from behavioral human decision making insights and evolutionary economics in order to outline what makes human humane and how human decision making is unique to set us apart from AI rationality. AI will be argued to bevalue humanness and improve the value of human-imbued unique features.

While the research is planned to be descriptive – afar from normative – and targeted to aid a successful introduction of AI into the workforce and society, the project will ask critical questions and unravel the ethical boundary conditions of our future artificial world. The findings promise to hold novel insights on future success factors for human resource management but also invaluable contributions for the successful introduction of AI and digital humanities in modern democracies and societies. Innovation's razor's edge is thereby aimed to be ennobled by ethical imperatives as old as humankind civilization.

The paper is structured as follows: First, the ontology of AI is outlined as well as an analysis of legal personhood. Then, the predicament between eternal life and overpopulation is presented. The virtues of dying and killing but also philosophical arguments for choosing suicide are discussed. The paper then embarks on the discussion of a future society with AI and draws on the socio-historic and legal examples of the Athenian city state democracy with different access to democratic rights, the ancient Roman Empire justification of a society featuring slavery but also the Code Napoléon of 1804, which granted male and female different rights establishing a substantial and justified power hierarchy between different classes of human. The article closes with an international law prospect on regulating AI.

2. Theory

2.1. Artificial Intelligence (AI)

Artificial Intelligence (AI) is “a broad set of methods, algorithms, and technologies that make software ‘smart’ in a way that may seem human-like to an outside observer” (Noyes 2016). The “human-like” intelligence of machines derives from machines being created to think like humans but at the same time to also act rationally (Laton 2016; Russell & Norvig 1995; Themistoklis 2018). AI is perceived as innovative technology or as the sum of different technological advances as the privilege of the private, technological sector with little—if any—public regulation (Dowell 2018).

As the most novel trend, AI, robots and algorithms are believed to soon disrupt the economy and employment patterns. With the advancement of technologies, employment patterns will shift to a polarization between AI’s rationality and humanness. Robots and social machines have already replaced people in a variety of jobs – e.g. airports smart flight check-in kiosks or self-check-outs instead of traditional cashiers. Almost all traditional professional are prospected to be infused with or influenced by AI, algorithms and robotics. For instance, robots have already begun to serve in the medical and health care profession, law and—of course—IT, transportation, retail, logistics and finance, to name a few. Social robotics may also serve as quasi-servants that overwhelmingly affect our relationships. Already, social robots are beginning to take care of our elderly and children, and some studies are currently underway on the effects of such care (Alemi Meghdari & Saffari 2017). Not only will AI and robots offer luxuries of affordability and democratization of access to services, as they will be—on the long run—commercially more affordable and readily available to serve all humanity; but also does the longevity potential of machines outperform any human ever having lived (Hayes 2018). However, the new technology also comes with the price of overpopulation problems and the potential for misuse and violent action. Just like many other technologies, robots could be misused for wars, terrorism, violence and oppression (Alemi et al. 2017; Puaschunder 2018).

AI’s entrance in society will revolutionize the interaction between humans and AI with amply legal, moral and social implications (Kowert 2017; Larson 2010). Autonomous AI entities are currently on the way to become as legal quasi-human beings, hence self-rule autonomous entities (Themistoklis 2018). AI is in principle distinguished between weak AI, where “the computer is merely an instrument for investigating cognitive processes” and strong AI, where “[t]he processes in the computer are intellectual, self-learning processes” (Wisskirchen, Biacabe, Bormann, Muntz, Niehaus, Jiménez Soler & von Brauchitsch 2017, 10). Weak AI is labeled as Artificial Narrow Intelligence (ANI) while strong AI is further classified into Artificial General Intelligence (AGI) and Artificial Super Intelligence (ASI).

The emergence of robotics technology is developing much quicker than previously thought. Robots are anticipated to soon be as ubiquitous as computers are today (Meghdari & Alemi, 2018). Society has long been concerned with the impact of robotics technology from nearly a century ago, when the word “*Robot*” was devised for the first time (Căpek 1921; Meghdari & Alemi 2018). The EU Committee on Legal Affairs (2016, 4) holds that “[U]ltimately there is a possibility that within the space of a few decades AI could surpass human intellectual capacity in a manner which, if not prepared for, could pose a challenge to humanity’s capacity to control its own creation and, consequently, perhaps also to its capacity to be in charge of its own destiny and to ensure the survival of the species.” AI mimicking human intellect could soon surpass humans intellectually but also holistically breaking the barrier of human controlled-automization (Schuller 2017; Themistoklis 2018). Modern literature about robots features cautionary accounts about insufficient programming, evolving behavior, errors, and other issues that make robots unpredictable and potentially risky or dangerous (Asimov 1942/1950, 1978, 1985; Meghdari & Alemi 2018). “Observe, orient, decide, act” will therefore become essential in the eye of machine learning autonomy and AI forming a new domain of intellectual entities (Armstrong & Sotala 2012, 52; Copeland 2000; Galeon & Reedy 2017; Marra & McNeil 2013). The uncertainty surrounding AI development and self-learning capabilities give rise to the need for guarding AI and an extension of the current legal system to cope with AI (Themistoklis 2018; Puaschunder 2018).

With the advancement of technology, social robots have found broader applications in the private and public sectors, such as educational and cultural affairs, games and entertainment, clinical and rehabilitation, nursing of children and/or elderly, search and rescue operations (Meghdari, Alemi, Shariati & Zakipour 2018). For example, social robots such as ASIMO, Nao, iCub, ARASH, and RASA have been developed for “Edutainment” or “educationentertainment” purposes. They aid the study of cognition (both human and artificial), motion, and other areas related to the advancement of robotics serving our society (Meghdari & Alemi 2018). In addition, a few medical and healthcare toy-like robots, such as PARO, which looks like a baby seal, or ARASH, which is a humanoid, have been designed for therapeutic purposes such as reducing distress, stimulating cognitive activity, teaching specific subjects, and improving socialization (Meghdari, Shariati, Alemi & Vossoughi 2018). Similarly, Sharif University of Technology’s socially assistive robot RASA has been developed to help coach and teach Persian Sign-Language to Iranian deaf children (Meghdari, Alemi, Zakipour & Kashanian 2018). Personal care and companion robots are increasingly being used to care for the elderly and children, such as RI-MAN, PaPeRo, and CareBot (Meghdari & Alemi 2018; Puaschunder 2018).

In recent years, robotics technology has extended its applications from factories to more general-purpose practices in society – for instance, such as the use of robots in clinical and rehabilitation, nursing and elderly care, search and rescue operations (Meghdari & Alemi 2018). Social robots have become clinical and educational assistants for social interventions, treatment, and education such as language trainings but also assistance with children with disabilities like autism, down syndrome, cancer distress, hearing impairment, etc. (Meghdari et al. 2018). Initial investigations clearly indicate that social robots can play a positive role in the improvement of children’s social performance, reduction of distress during treatments, and enhancing their learning abilities (Meghdari & Alemi 2018). Surprisingly, although not too hard to imagine, relationships of a more intimate nature have not quite been satisfied by robots yet (Meghdari et al. 2018; Veruggio, 2005).

3. AI’s ethical boundaries

In today’s economy, robots and algorithms now taking over human decision-making tasks and entering the workforce but also encroaching our private lives, currently challenges legal systems around the globe (Themistoklis, 2018). The attribution of human legal codes to AI is one of the most groundbreaking contemporary legal and judicial innovations. Until now, legal personhood has only been attached directly or indirectly to human entities (Dowell, 2018). The detachment of legal personhood from human being now remains somewhat of a paradox causing an extent of “fuzziness” of the concept of personhood (Barrat, 2013; Solum 1992, 1285). As AI gets bestowed with quasi-human rights, defining factors of human personhood will need to be adjusted (Dowell 2018). Human concepts, such as morality, ownership, profitability and viability will have different meaning for AI. The need for redefining AIE has therefore reached unprecedented momentum.

As a predicted trend, the co-existence of AI with the human species is believed to change the fundamental concepts of social, political and legal systems. AI has already produces legal creations and will do so even more in the near future, through its developing autonomy. In addition, the technology leading to AGI and ASI is already present, posing moral and legal dilemmas about who should control it and under what terms (Themistoklis 2018). The emergence of AGI and ASI will necessitate the attribution of some extent and of some type of legal personhood, bearing rights and obligations. AI will not be most probably an exact replication of human intellect behavior (Themistoklis 2018). “[U]ltimately, robots’ autonomy raises the question of their nature in the light of the existing legal categories – of whether they should be regarded as natural persons, legal persons, animals or objects – or whether a new category should be created, with its own specific features and implications as regards the attribution of rights and duties” (Committee on Legal Affairs 2016, 5). Behavioral economists add the question whether AI and robots should be created to resemble human beings’ decision making with fast thinking and fallible choices or rather be targeted at perfect rationality and slow thinking (Kahneman & Tversky 1979). General conscious is

strived for so that AI possesses consciousness, which it can evolve and enhance on the basis of its own critical reflection and assessment of external factors (Themistoklis 2018). A lower level of autonomy exists if an entity can demonstrate such consciousness at a narrow field or can self-evolve and self-adapt to external influences, thus reaching decisions “of its own,” without being conscious of its intelligence as such (Themistoklis 2018). As AI emerges as new types of intellect capacities coupled with human-like emotional features, they are attributed a legal personhood in order to ensure to be comprehended correctly and to avoid unfair treatment, towards humans as well (Themistoklis 2018). Artificial entities are currently gaining human or quasi-human status in the Western and Arab worlds in forming an intellectual autonomy of the entity (MacDonald 2016). For instance, in Saudi Arabia the first female robot got a citizenship in 2017 and the robot appears to have more rights than a human female in Saudi Arabia. With the rise of AI persons, their eternal life poses ethical challenges in light of overpopulation and evolutionary perfection, which could crowd out human fallibility if determining merit-based eternal life.

With citizenship and quasi-humanness being attributed to AI, the power relation between human and AI will need to be defined. Should AI be granted full citizenship rights, the problem of overpopulation occurs, since there is the possibility of infinite life of AI. In a human-led evolution, AI will have to be switched off for various reasons, such as malfunction but also merit-based efficiency calculus. If now AI is considered as quasi-humane and granted citizenship rights, switching off AI becomes a legally problematic.

While there is currently cutting-edge writing about the potential emergence of an AI personhood as well as concern over the merge of AI with cyberspace that might lead to the breach of the relationship between legal personhood and nation state sovereignty and a nomenclature is emerging on legal characterizations of different levels of AI development; hardly any information exists about the eternal living of AI (Beerbaum & Puaschunder 2018; Hildebrandt 2013). From the theoretical standpoint, the eternal longevity of AI contradicts the fundamental concept of fairness in death, as a general condition for all. From the practical standpoint, the international community is currently urged to think on the basis of global commons in terms of AI and AI eternal life potentials contributing to overpopulation. Thereby global commons theories may be tabbed on, which primarily offer guidance for a regulatory framework, which establishes control “...for the benefit of all nations” and refer to space constraints (Clancy, 1998; Puaschunder, 2018; Tsagourias, 2015).

Regarding limited space, longevity and eternal life appears problematic. Humankind may face tough decisions whether or not to have AI proceed and what kind of developments to flourish and what to extinct. In what cases should we consider to switch off AI? In 1950, Isaac Asimov introduced the idea robot to (1) not injure a human being or, through inaction, allow a human being to come to harm. (2) A robot obeying the orders given it by human beings except where such orders conflict with the first law. (3) A robot must protect its own existence as long as such protection does not conflict with the first or second law. So in the cases of overpopulation and harm emerging from AI, algorithms and robots can be considered to be switched off. But when to stop AI?

An economic killing market mechanism may be natural market selection via price mechanisms and the falling rate of profit. Regarding prices, natural supply and demand mechanisms will always favor innovation with a higher price and following supply of goods lead to a price drop. The falling rate of profit is one of the major underlying features of business cycles, long-term booms and downturns (Brenner 2002, 2006a, b). Capitalism is thereby described as competitive battle for innovation and reaping benefit from first-market introductions. Once followers enter the market, profit declines, leading eventually to market actors seeking novel ways to innovate in order to regain a competitive market advantage and higher rates of profit. Thereby industries and innovations fade and die off. Such a natural market evolution is also likely to occur with AI innovations, which will determine which AI traits will remain and which ones will fade off (Puaschunder 2018). Apart from soft market mechanisms that may lead to AI evolution, what are the cases when AI should be shut down or switched off or – in the case if AI personhood – be killed?

4. Killing AI

Errors and Safety: The main and leading concern about any new and emerging technology is to be safe and error free (Meghdari & Alemi 2018). Therefore, sufficient and numerous tests on health and safety must be performed by developers and/or well-known independent sources before rolling out any technology onto the marketplace and society (Meghdari & Alemi 2018). In robotics, the safety issue mainly centers around software and/or hardware designs (Meghdari & Alemi 2018). Even a tiny software flaw or a manufacturing defect in an intelligent machine, like a smart car or a social robot, could lead to fatal results (Meghdari & Alemi 2018). When these deviations occur and especially when they are harmful to the human community but also to other AI species, the faulty AI should be terminated. With regard to the risk of robotic malfunctions and errors, product legal responsibility laws are mostly untested in robotics (Meghdari & Alemi 2018). A usual way to minimize the risk of damage from social robots is to program them to obey predefined regulations or follow a code-of-ethics (Meghdari & Alemi 2018). Ethical codes for robotics are currently needed and should become formed as a natural behavioral law to then be defined and codified as law. Laws but also an ethical understanding to terminate AI, algorithms and robots in case of impairment and harm are needed.

Morals, Ethics, and the Law: As social robots become more intelligent and autonomous and exhibit enough of the features that typically define an individual person, it may be conceivable to assign them responsibility and use them in social, educational, and therapeutic settings (Meghdari & Alemi 2018). In the currently ongoing research on the integration of computers and robotics with biological corpse it is found that a cognizant human brain (and its physical body) apparently has *human-rights*; hence, replacing parts of the brain with artificial ones, while not harming its function, preserves those rights (Meghdari & Alemi, 2018; Warwick & Shah 2014). Also, consider a handicapped person featuring an electronic robot arm that commits a crime. It becomes obvious that half-robot-human beings should be considered as human and robots as quasi-human beings. Meghdari & Alemi (2018) speculate that at some point in the future, we may face a situation in which more than half of the brain or body is artificial, making the organism more robotic than human, which consolidates the need of special *robot-rights* and attributing (quasi)-human rights onto robots. When considering robots as quasi-human beings, their termination appears legally questionable and ethically challenging, requiring revisiting laws as legitimation to kill a likewise species as well as ethical consensus on the virtue of killing (Puaschunder 2018).

The legal argumentation may draw on justifiable homicide as outlined in criminal law cases – such as prevention of greater harm to innocents during an imminent threat to life or well-being in self-defense. According to the United Nations Universal Declaration of Human Rights, Article 3 states that everyone has the right to life, liberty and security of person and most nations' policy allows for some degree of leniency for self-defense, which reduces charges. Potentially excusing conditions common to most jurisdictions include wartime, when the person's death is inflicted by the effect of a lawful arrest or prevention of lawfully detained person's escape, quelling riot or insurrection, when the use of force is „no more than absolutely necessary.” Some countries deem it lawful for a citizen to resort to violence to protect valuable property and there is the “heat of the moment” defense argument, in which the defendant deemed to have lost control through provocation. Doctrine of necessity allows, for example, a surgeon to separate conjoined twins and killing the weaker twin to allow the stronger twin to survive. While fetuses are considered as unborn children in the US, the right to an abortion was upheld in the US legal system as exemption from prosecution (*Roe v. Wade* 1973). Several countries, such as the Netherlands, Belgium, Switzerland, Japan, and the U.S. states of Oregon and Washington, allow both active and passive euthanasia by law, if justified. Where the person concerned is to be arrested for an offense referred to in Schedule 1 or is to be arrested on the ground of having committed such an offense, and the person authorized under this Act to arrest or to assist in arresting him cannot arrest him or prevent him from fleeing by other means than killing him, the killing shall be deemed to be justifiable homicide. If any arrestor attempts to arrest a suspect and the suspect resists the attempt, or flees, or resists the attempt and flees, when it is clear that an attempt to arrest him or her is being made, and the suspect cannot be arrested without the use of force, the arrestor may, in order to effect the arrest,

use such force as may be reasonably necessary and proportional in the circumstances to overcome resistance or to prevent the suspect from fleeing: Provided that the arrestor is justified in terms of this section in using deadly force that is intended or is likely to cause death or grievous bodily harm to a suspect, only if he or she believes on reasonable grounds (§7 Judicial Matters Second Amendment Act 122 of 1998).

In light of overpopulation and harmful behavior of AI, switching off artificial life, which is currently be granted quasi-human status, will need to be argued legally and supported ethically. Killing in terms of the death penalty is justified legally in the 5th (and the 14th) amendment that states “no person shall be deprived of life, liberty, or property without due process of law,” while the eighth amendment prohibits “cruel and unusual punishment.” Killing in terms of harmful behavior of AI can be grounded on similar legal reasons to ensure that no AI harms the collective. Overpopulation claims leading to the need to take AI partially off the grid more lead to philosophical sources that argue for individual’s free will to choose to live or die (Critchley 2015).

Apart from self-defense, suicide may also serve as legally justified argument for switching off AI, if artificial life is programmed to terminate itself when harmful in such way that AI causes injury to a human being or, through inaction, allow a human being to come to harm. A robot not obeying the orders given it by human beings except where such orders conflict with the first law. We could argue that AI should stay alive at whatever the cost in virtue of killing AI, when turning harmful.

Suicide has been tabooed for most part of history and propagated to be a religious sin or classified as a psychological disorder (Critchley 2015). Yet the human gift of reflection and search for meaning in life or death could leverage into an asset in the AI evolution in the decades to come. Suicide understood as neither a legal nor a moral offence but as right to death bestowed upon human beings in their self-conscious reflection may be extended as a virtue of killing in the artificial age, when human beings will have to decide what AI should stay alive and what AI be taken off the grid. Human will thereby become the rulers of the forthcoming AI evolution.

The ethical imperative of switching AI off may be found in David Hume’s saying ‘*No man ever threw away life, while it was worth keeping*’ (Critchley 2015, 15f.). Hume’s point is that when life has become a burden that cannot be borne, one is justified in taking it. In this argumentation line, if AI life has become a burden that cannot be borne by society, society is justified in taking AI’s life. Critchley (2015) recommends reflective compassion based on empathy and introspection, but we may also need foresight and inclusion of future externalities. In the artificial age, AI may therefore be programmed with a constitution for suicide. Also in Seneca we find that when a human life no longer flourishes, one being permitted to end it (Critchley, 2015). The Stoic tradition argued that suicide is a legitimate act and an honorable gesture of farewell from a state of unbearable pain, whether physical or psychical (Critchley, 2015). In this sense, AI’s death may be argued to be justified when AI imposes a state of unbearable pain unto others. Religious stances that suicide is wrong because only God having moral authority over human lives and thus us being property of God could be subsumed into a condition to legitimize human having authority over AI and thus being our property, in which we can decide what developments to maintain and which ones to switch off in a human-led AI-evolution. This human-led evolution is believed to revolutionize modern society and civilization. Killing AI – or determining what AI development should survive – may therefore become an act of self-defense or legalized suicide.

As in a suicide note that speaks as final communication to the descendants, algorithms that are forced to be switched off should also store information on the reason that terminated them and be conserved in a blockchain that serves to educate the network about malfunction and malpractice. This piece of publicity should serve as disciplinary and signal function. In suicides with guns, people aim at the head not the heart – while both head and heart stop function in human thereafter, in AI, we may program that the brain function, that is constant storage of information and adaptive reprogramming and actions get switched off but some positive parts remain intact to be reprogrammed (Critchley 2015). Death will end the incoherence in creating a beautifully benevolent AI structure, which we may see as evolutionary cleansing of destruction coming out of AI. The

death algorithm button will bestow coherence to the human-led evolution of AI. The voluntary switch to shut AI off will be the pejorative of human and dominating privilege of human over AI. There will be a beauty to death, the stillness, the rest and the finally stopped negative character of AI evolution (Puaschunder 2018).

The virtue of killing could also be grounded on Viktor Mayer-Schönbergers “right to be forgotten,” which ensures data privacy through automated deletion of contents after a certain period and grants individuals rights to have their data been destroyed (Puaschunder 2018; forthcoming). In this line, we may argue a “right to destroy” and program AI to stop itself should it incur hurt, damages and losses to humankind. However, the implementation of this right is still in infancy and hindered by questions of what court is responsible for an as such claim. As a legal subsumption, we may speculate that individuals may be granted a ‘right to terminate’ and can order for robots to be switched off if causing harm to them. As the ‘right to be forgotten’ law can be overruled by concern for public safety, this may also apply to the right to terminate. Thereby it deserves mentioning that safety differs around the world and also expected safety standards (Puaschunder 2018). All these developments are prospected to lead to an AI-evolution, in which human are meant to select the process what AI should survive or be killed. Key decision maker thereby divert favorable traits and developments from unfavorable. But who should determine what should survive, human or AI? A question that can be answered by sorting out the legal power relation between AI and human.

5. AI human democracy and society

With AI entering human society and being considered as quasi-human and granted citizenship, the ethical question arises, what kind of citizen AI are? Should AI be considered as full citizens, we run into the problem of overpopulation as discussed. In addition, AI dominance of physical and computational power creates risks of AI outperforming and eventually dominating human. With this scenario in mind, a legal power hierarchy should be established that grants a predominance of human over AI that allows human to benefit from AI but also ensures that dignity in the treatment of AI is upheld for the sake of breeding a generally favorable and amicable climate in society.

5.1 Human predominance over AI

When considering the enormous physical and longevity advantages AI hold over human, a natural dominance of AI over humankind is implied. In order to ensure that human lead AI and are not subordinated, a society should be established, in which robots gain quasi-human rights but may not have the same powers and rights as human beings. In the earliest form of democracy in the ancient Athenian city state, different classes of citizenship existed.

The first known democracy developed around the fifth century BC in the Greek city-state of Athens, which featured the first government by its people, in which the supreme power was vested in the people and exercised directly by them or by their elected agents under a free electoral system. The ancient Athenian democracy became an important source for 18th-century revolutionaries’ intellectual background during the American, French and other continental European revolutions. State constitutions around the globe and over time, political speeches and writings about nation states and society reflect the core principles conveyed in the ancient Athenian city state democratic model, which become a model for shaping civilization throughout the world. To this day, a democracy accounts for the most advanced political order in an egalitarian society (Vlassopoulos 2009).

In 507 BC, the Athenian leader Cleisthenes introduced a system of political reforms called *demokratia* or rule by the people to ensure security, stability and prosperity to the entire community. Key features of democracy are equality, accountability, citizen participation, rule of law, political tolerance, transparency, economic freedom and a multi-party political system. In the ancient Athenian democracy model, not every citizen had the right to vote, run for office and participate in political discussions. Yet to all, the democracy was meant to protect and uphold dignity of all people. Therefore, the Athenian democracy bestowed a favorable climate in society without political equality of all citizens.

As a direct democracy, citizens voted directly on legislation and executive bills. However, participation in democracy was not open to all residents but limited to adult, male citizens excluding women, foreign residents and slaves. In ancient Athens, only male Athenian citizens who had completed their military training had the right to vote and only about 10 to 20% of inhabitants actually participated in governmental decision making. Women had limited rights and privileges, restricted movement in public and were legally segregated from men. Also excluded from voting were citizens whose rights were under suspension – foremost for failure to pay debt to the city. Only descendants from two Athenian parents could claim Athenian citizenship. Citizenship could also be granted by the assembly and sometimes given to large population groups as a reward for service to the state. As slavery was widespread in Athens and seemed to have developed the city state, the ancient Athenian democracy is attributed to economically be based on slavery, which allowed the general public to devote privileged amounts of time to political life.

The Athenian form of direct democracy does not only serve as an example of not all citizens being allowed to vote being a feasible governmental structure but also – as for its direct character – as a forerunner of electronic democracy. A future world with AI blended into society could structure the human – AI relation based on the ancient Athenian city state societal composition, in which different classes of citizenship lived together in harmony. As in the ancient Athenian democracy model, not every citizen should have the right to vote, run for office and participate in political discussions. AI could become citizen, yet not be allowed to vote, run for office and participate in political discussions. Yet to all, AI and human, democracy and citizenship is meant to protect and uphold dignity of all people and AI.

In order to create a more inclusive democracy than the ancient Athenian direct electronic democracy may be introduced, in which voters vote on a political agenda featuring different spectra of choices (e.g., libertarian versus state-controlled, pro-against immigration...) and the mean of their choices then gets processed by algorithmic choice of programs to be enacted by politicians. Algorithms could thereby compute the standard choice of politicians representing different agenda based on historical information and aid to inform politicians about the outcomes of several choices in the past. AI and algorithms hold the computational power and data calculus capacity to do so. This would ensure closer accuracy of political will resembling collective choice and enable to reap AI benefits for political choice, while ensuring human to stay in charge but enhanced by artificial benefits. This integration of AI in form of an advisory role to governments could enable AI access to democracy as a compromise without AI having direct voting rights.

5.2. Human reaping benefits of AI

AI entering the workforce and holding enormous physical and longevity advantages over human, implies the economic gains to be reapeable. Standard economic growth models hold that capital and labor are essential for an economy to flourish. While capital is usually considered as fungible and exchangeable and eternal; labor is more individual, human and inflexible. AI entering the workforce and blending in as a substitute to human capital, will change the nature of labor, potentially dividing labor into a putty, flexible, eternal and exchangeable AI part and a clay labor of inflexible human capital (Puaschunder, work in progress). In order to ensure that human can legally benefit from the economic output and growth generated by AI, a society should be established, in which robots gain quasi-human rights but may not have the same material needs and rights as human beings. In the earliest form of society in the ancient Roman Empire, a society existed that featured a high culture and human protection but legal slavery.

Slavery in ancient Rome played an important role in society and the economy. Slaves provided manual labor and agriculture, working on farms, mines and mills, household domestic services, urban crafts and services but also skilled, educated professions, such as accountants and physicians as well as imperial and public services. Slaves were considered property under Roman Law and had no legal personhood. Unlike Roman citizens, they could be subject to corporal punishment, sexual exploitation, torture and summary execution. Over time in history, slaves gained increased legal protection, including the right to file complaints against their masters.

Legal foundations of slavery can already be found as early as in the Twelve Tables, Rome's oldest legal code. Around the 2nd century, Ulpian defined slavery as an aspect of the *ius gentium*, a customary international law held in common among all people. Slavery was held to be a practice common to all nations, who might then have specific civil laws pertaining to slaves. In ancient warfare, the victor had the right under the *ius gentium* to enslave a defeated population. The *ius gentium* was not a legal code but reasoned compliance with standards of international conduct (Bederman 2004). During the Roman imperial expansion, substantial growth of slavery transformed the economy (Hopkins 1983). Delos in the eastern Mediterranean was made a free port in 166 BC and become one of the main market venues for slaves. Augustus imposed taxes on slave trade, which was increased over time with the rising number of slaves, which comprised of up to 35-40% of Italy's population (Harris 2000). The price of slaves was determined by origin, health, character, intelligence and education. The living conditions of urban slaves was inferior to free persons living with them but sometimes superior to that of many free urban poor in Rome. Household slaves likely enjoyed the highest standard of living among Roman slaves, next to publicly owned slaves, who were not subject to the whims of a single master (Johnston 1957). Imperial slaves were those attached to the emperor's household (The Oxford Encyclopedia of Ancient Greece and Rome 2010). Sophisticated slaves that were used for economic trade were permitted to earn money for their personal use (Berger 1991). Slaves could also be freed by a magistrate's declaration with the prior authorization of the Senate or the Emperor.

Slaves were seen as excluded from the *persona*, the synonym for the true nature of the individual, and considered to not have a personality. A slave would not own his or her body, had no ancestors, no name, no cognomen and no goods of his or her own (Mauss 1979). The testimony of a slave could not be accepted in a court of law unless the slave was tortured. Rome differed from Greek city-states slaves in allowing freed slaves to become citizens. After *manumission*, a male slave who had belonged to a Roman citizen and now acquired *libertas* as a *libertus/a* (freed person) enjoyed active political freedom including the right to vote. The former master become a patron. Freed slaves become the class of *libertini*, who were not entitled to hold public office or state priesthoods, nor could they achieve senatorial rank. Any future children of a freedman would be born free, with full citizenship rights. Roman slaves could hold and use property, which belonged to their masters, as if it were their own (Gamauf 2009). Skilled or educated slaves were allowed to earn their own money in hope to buy their own freedom (Kehoe 2011; Bradley 2011.). Slaves that were abandoned by masters were also free. Legal protection of slaves grew over time and history due to egalitarian views of humanity of the Stoics. A master who killed a slave without just cause could be tried for homicide and it became common for slaves to complain against cruel and unfair treatment of owners (Dillon & Garland 2005). Rebellions and runaways of escaped slaves were published and those returning fugitives rewarded. Fugitives were branded on the forehead or had to wear a metal collar around the neck with the contact of the master. Slave rebellions surracted several times, most noticeable are the First, Second and Third Servile War. On the countryside, the Roman Empire also featured practiced serfdom. The Stoics and early Christians opposed ill-treatment of slaves (Ephesians 6:5-9; Colossians 4:1; 1 Corinthians 7:21; 1 Peter 2:18 - KJV)

In order to ensure that human can legally benefit from the economic output and growth generated by AI, robots should be granted quasi-human rights but may not have the same material needs and rights as human beings. Slavery thereby allows to reap the benefits AI. AI's newly assigned roles appear to overlap with slave tasks of ancient Rome slaves that provided manual labor and agriculture, working on farms, mines and mills, household domestic services, urban crafts and services as well as skilled, educated professions, such as accountants and physicians as well as imperial and public services. Like in ancient Rome, AI should be considered as property with no legal personhood. However, unlike ancient Roman slaves, they should not be subject to corporal punishment, sexual exploitation, torture and summary execution. Over time in history, AI – as the ancient Roman Law example of slaves – may gain more sophisticated legal protection, including the right to file complaints against misuse.

As for the international character of AI and algorithms, their fungability and fluid capital character; broad legal foundations of AI and the overarching regulatory framework how to classify reaping benefits from AI should be codified in customary international law held in common among all people. This would resemble the ancient tradition of Roman slavery being codified under *ius gentium* – an ancient predecessor of international law – and allow AI to remain fully fungible and practiced common in all nations, who might then have specific civil laws pertaining nuances of AI conduct in society.

As practiced during slavery in the Roman Empire and proposed by Bill Gates, reaping benefits from AI should be taxed based on the revenue generated by AI and/or the price of AI determined by sophistication. Defining AI as slaves would ensure to uphold decent standards of living for these creatures, while human naturally stay in charge of the evolution and introduction of AI into human society. As debated in the ancient Roman society, sophisticated AI that is used for economic trade may also be permitted to earn money for their personal use; but should never be freed and gain the same rights as human as there is something unique and special to humanness, which will be discussed in more detail in the discussion section of this paper. The uniqueness of human naturally leads to the natural exclusion of AI from the *persona*, the synonym for the true nature of the individual, and considered to not have a personality. As a Roman Law slave, AI should not own his or her body, have no awareness of its ancestors, and no goods or material cravings of his or her own. The testimony of AI should not be accepted in a court of law unless AI reports misuse that can be harmful to humankind. Differing from Roman Law slavery, AI should never be freed and human should always stay masters of their own creation. AI should not be entitled to hold public office or religious leadership and remain without rights to hold and use property on their own. AI and robots should not be allowed to earn their own money and even if being abandoned by masters, they should never be considered as free.

In order to protect humankind against rebellions of robots and AI, fugitives or deviant developments should be published, stopped according to the right to destroy and those aiding to inform about deviant developments rewarded. While fugitives in the ancient Roman Empire were branded on the forehead or had to wear a metal collar around the neck with the contact of the master; stopped AI or robots should be integrated into a blockchain as a trace of information on unwanted AI and robot behavior but also as a disciplinary function against other AI uprising and rebellious tendencies.

As in the case of the Greek and the Roman Law slaves, legal protection of AI may grow over time and history due to egalitarian views of humanity. For instance, destruction of AI without just cause could be tried for homicide and complaints of robots against cruel and unfair treatment of owners be supported in front of courts. In order to oppose ill-treatment of slaves immediately, dignity may be upheld in applying a legal code with two different classes of society. As such, the Code Napoléon as the first civil code may serve as guiding example.

5.3. Dignity upheld in the treatment of AI

If AI gets legally and economically subordinated to human, ethical questions arise. According to Kant's categorical imperative, which states one should only engage in actions, one wants to be done to oneself, AI should be protected against harm and misuse or abuse. The concern here is less so the emotional and psychological state of AI, which arguably may not exist given missing self-cognition and emotions in AI, but more to set a signal and not to allow triggering sadist and negative compulsion in human that could be taken out on other human as well, if human become conditioned and learn from mistreating AI on a daily basis.

A legal code that may serve as reference hereby may be the Code Napoléon of 1804, a Civil Law code that defines and classifies male and female as human beings but legally bestows upon them substantial power differences, especially regarding material possession and democratic participation.

The Napoleonic Code (Code Napoléon, Code civil de Français) is the French civil code established under Napoléon I in 1804. As the first clearly written and accessible compilation of

modern law, the Code Napoléon has become one of the most influential legal documents in history that influenced the law of many countries around the world (Mohamed, 2016). The Napoleonic Code became the most influential legal civil law code around the world that was adopted as the basis of private law systems of Arab world, Austria,ss Belgium, Canada, Chile, the Commonwealth, Egypt, Germany, Italy, Ireland, Latin America, the Netherlands, Portugal, Poland, Puerto Rico, Romania, Russia, Scandinavian countries, Scotland, Spain, Switzerland, United Kingdom, United States Louisiana to name a few.

With regard to family, the Code established the supremacy of the man over the wife and children, which was the general legal situation in Europe at the time (Smith, 2006). A woman was given even fewer rights than a minor.

In the attempt to protect AI against suffering, harm and misuse or abuse, the Code Napoléon may be applied and define AI and human as quasi-human and grant citizenship to both forms but different power regarding material possession, democratic participation and public leadership. A natural supremacy of human over AI and robots could be established. As the role of woman and minor even differed, a power hierarchy could even be codified between sophisticated and less-sophisticated AI and robots.

6. The value of humanness in the artificial age

Globalization led to an intricate set of interactive relationships between individuals, organizations and states. Unprecedented global interaction possibilities have made communication more complex than ever before in history as the whole has different properties than the sum of its increasing diversified parts. Electronic outsourcing in the age of artificial intelligence is likely to increase and with this trend a possible nudgital divide in the 21st century. In the light of growing tendencies of globalization, the demand for an in-depth understanding of how information will be shared around the globe and artificial intelligence hubs may evolve in economically more developed parts of the world has gained unprecedented momentum. Another predictable trend in the wake of the artificial intelligence revolution will feature time. Artificial intelligence with eternal life and 24/7 productivity capacities will change tact.

Finally, we may address the question what is it that makes human humane? In the age of artificial intelligence and automated control, humanness is key to future success. Future research may draw from behavioral human decision making insights and evolutionary economics in order to outline what makes human humane and how human decision making is unique to set us apart from artificial intelligence rationality. Drawing from proposed research will thereby draw from behavioral human decision making insights and evolutionary economics in order to outline what makes human humane and how human decision making is unique to set us apart from AI rationality; AI is argued to bevalue humanness and improve the value of human-imbued unique features.

Humanness as found in heuristics, decision making errors but also procreation and creativity is believed to become more valuable in a future of AI entering the workforce and our daily lives.

The findings promise to hold novel insights for future success factors for human resource management but also invaluable contributions for artificial intelligence ethics. Having parts of the world being AI-driven and others being human capital grounded is prospected to increase the international development divide in the years to come. While in the AI-hubs human will be incentivized become more creative and humane while AI performs all rational tasks to a maximum productivity, other parts of the world will naturally fall back as for being stuck in spending human capital time on machine-outsourcable tasks and not honing humane skills, which are not replicable by machines.

Future research endeavors may address inequality drawing on the future vision that central rational AI-hubs will outperform underdeveloped remote areas of the world even more in the digital age.

7. Discussion

Overall the ongoing research project plays an important role in the evaluation of AI's entrance into the workforce and our daily lives. Depicting nudging during this unprecedented time of economic change and regulatory reform holds invaluable historic opportunities for capturing AI's influence on the stability of economic markets and societal systems. Global governance policy makers can snapshot AI's potential in the digital age and bestow market actors with future-oriented foresighted. The results are aimed at guiding a successful AI and robot implementation to lower systemic economic market downfalls with attention to the changes implied in the wake of the ongoing artificial intelligence revolution. Market and societal policy recommendations for global governance experts on how to strengthen society by AI but also overcome unknown emergent risks within globalized markets and bestow market actors with key qualifications in a digitalized world are endeavored in future research.

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Global Corporate Tax Rate Competition Who Pays the Bill?

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ABSTRACT: Countries heavily rely on tax revenue for their welfare programs, which aim to reduce inequalities. Taxes are countries' main sources of revenue and provide funding for governmental expenditures. A country's spending is usually divided into categories: mandatory, discretionary, and interest on debt expenditures. These include assistance programs, such as the United States' Medicaid program, the Supplemental Nutrition Program (so-called foods stamps), and the Temporary Assistance for Needy Families program. The United States lowered its U.S. corporate income tax rate from 35% to 21% in 2018, after the enactment of the United States Tax Cuts and Jobs Act. Similarly, members of the Organization for Economic and Co-operation and Development (OECD) lowered their corporate statutory tax from their 2000 average rate of 28.6% to 21.4% in 2018. In the international context, state-to-state tax arbitration is implemented by OECD members to provide multinationals with double tax relief. In contrast, individuals do not benefit from a similar tax reduction. The United States' highest marginal income tax rate was reduced from 39.60% to 37% in 2018, whereas 0.5% was the average reduction implemented for individuals by OECD members from 2000 to 2017. This paper analyzes whether states expect private corporations to undertake more social responsibility when considering tax benefits. States' examination of corporates' social responsibility includes whether private social accountabilities align with corporations' profit-oriented natures as well as state interest in public welfare. Furthermore, this paper examines states' alternative sources of revenues that could balance out the effects of the reduction of corporations' tax rates and other granted benefits, including tax arbitration for multinationals' double tax relief.

KEYWORDS: federal taxes, OECD, tax arbitration, welfare program, tax revenue, corporate tax, income tax, Tax Cuts and Jobs Act, individual taxes, MAP arbitration, alternative sources of revenue, mutual agreement procedure, international taxation, Base Erosion Profit Shifting (BEPS), Action 14, Section 482, arm's length

Introduction

Taxes are countries' main sources of revenue and support governments' expenditures. A country's spending is usually divided into categories - mandatory, discretionary, and interest on debt expenditures - and these include assistance programs such as the United States' Medicaid program, the Supplemental Nutrition Program (so-called foods stamps), and the Temporary Assistance for Needy Families. Countries rely heavily on tax revenue for their welfare programs in order to reduce inequalities. With the enactment of the United States Tax Cuts and Jobs Act, the country lowered the U.S. corporate income tax rate from 35% in 2017 to 21% in 2018 (USCS USSALT 2017-115-9; Tax Policy Center 2017).

Similarly, members of the Organization for Economic Cooperation and Development (OECD) lowered their corporate statutory tax rate from an average of 28.6% in 2000 to 21.4% in 2018 (OECD 2019). In the international context, state-to-state tax arbitration is implemented by OECD members, including the U.S., to provide multinationals with double tax relief (U.S. Department of Treasury, United States Model Income Tax Convention). The tax arbitration is available to the taxpayer as a result of tax treaties. The arbitration award determines how two jurisdictions allocate taxpayer's tax rights when both states claim they are entitled to it.

In contrast, individuals do not benefit from a similar tax reduction. The highest marginal income tax rate in the U.S. was reduced from 39.60% to 37% in 2018 (USCS USSALT 2017-115-9; Tax Policy Center 2017), whereas OECD members decreased individual tax rates by 0.5% from 2000 to 2017 (OECD 2019; 2018, 7).

This paper examines whether states expect private corporations to undertake more social responsibility when considering the tax benefits they grant. The paper also considers whether this presumption is consistent with corporations' profit-seeking nature and states' interest in public welfare interest. Furthermore, this paper examines states' alternative sources of revenues that could balance out the effects of a reduction of tax rates for corporations and other granted benefits, including tax arbitration for multinationals' double tax relief.

It is Corporate's World

In the past, individuals used business structures, including corporations, to shield themselves from personal liability. Back then, it was unforeseen that corporations would become today's complex and powerful structures, and such large players in the political, economic, and social arenas.

With increasing globalization, corporations have expanded internationally, acquiring power equivalent to that of states (Riken 2009, 28). Multinationals now exercise their enormous bargaining power, seeking to globally maximize profitability by lobbying for economic and legal environments that better suit their needs. On the other hand, states, concentrating on their economic growth, often offer corporations attractive benefits to avoid a capital outflow.

A state, however, must act according to its national interests. Lowering the national unemployment rate and gathering the projected tax revenue for budgeted expenses are among significant concerns of a state. A state goal, however, may be directly affected – positively or negatively – by the manner in which a corporation positions itself in a specific jurisdiction, as public and private objectives may not necessarily align. Corporations' strategies are global and include sophisticated tax planning in order to reach a low effective tax rate and maximize profits. To that end, multinationals may fluctuate levels of investment or their employment rate in a country.

On the other hand, a state assumes that a tax cut accelerates its economic growth, sparking a higher level of employment that can lead to more consumption and expansion of its tax base. Therefore, in theory, a state would have a broader tax base, including taxes over wages, and corporations' boosted taxable income. Nonetheless, this projection becomes challenging when other states offer similar or more advantageous tax benefits to multinationals. As a result, a state must engage in a comprehensive strategy, in addition to offering a favorable environment for multinationals. Lowering state expenditures and seeking alternative sources of revenue can help neutralize a possible loss of revenue and deficit difficulties.

Tax incentives can be even more challenging in developing states because they are still quite dependent on a large lump of investment for building up their basic infrastructures, such as public health, electricity, sanitary sewer systems, and environmental impact management. As a result, those states must carefully balance the benefits of offering multinationals tax benefits and maintaining their tax systems in place to improve their welfare programs and reduce poverty (Zolt 2013, 647).

It is known that private and public interests must be balanced. However, there is difficulty in counterbalancing a multinational's global strategy with the interests of each state since a multinational's goal is to maximize its global profitability with the less possible effective tax rate, while a state's goal is to ensure efficiency, without shrinking its tax base.

Then, Should Multinationals Pay Twice?

In order to attract investments, states sign bilateral and multilateral treaties consenting to mandatory and binding tax arbitration to prevent multinationals from exposure to a double tax burden. The treaty arbitration provision is an update to the mutual agreement procedure (MAP) clause, which provides for state-to-state negotiation among the treaty partners for better protection of taxpayers' rights when a corporation is taxed twice for the same event.

The long and unsuccessful non-binding MAP treaty provision, aligned to factors that include multinationals' challenge in complying and applying a non-uniform global transfer pricing rules -

that could culminate with relevant tax adjustments in more than one jurisdiction over the same event -triggered a global discussion.

Seeking a more uniform approach to international taxation and a better balance of public and private interests, the OECD launched 15 action plans under its the Base Erosion and Profit Shifting Project (BEPS). Action 14 calls for definitive tax arbitration after a non-settled MAP. For example, in 2016 the United States, an OECD member, committed itself to the BEPS Project and incorporated an arbitration provision, referring cases to binding and mandatory arbitration after two years of non-settled negotiations (U.S. Department of Treasury 2019). To date, state-to-state tax arbitration is the only effective way to solve multinationals' double tax burden.

Since multinationals' strategies are global, states that grant them access to treaty arbitration could hypothetically be awarded a greater inflow of investment. The combination of a low effective tax rate and lack of risk of double taxation in transfer pricing matters grant multinationals the certainty of a stable legal and economic environment for their investments.

However, the tax arbitration model provides states – especially developing jurisdictions – with less certainty. A binding and mandatory arbitration provision limits tax sovereignty and can subject states to undesirable consequences, including the concession of tax credits, exceptions, or allowances. Furthermore, due to the confidential nature of state-to-state tax arbitration and its early stage, a state cannot forecast the economic or social impact of such a provision.

Thus, a state faces the dilemma of choosing between the risk of a capital outflow by not benefitting multinationals with the certainty of double tax relief or making an irreversible decision that could lead to a material loss of tax revenue. Again, it becomes a challenge of balancing public and private interests when the public party plans on a strictly local basis, and the private party has a global strategy. The balance must be constantly readjusted since societies and multinationals continuously evolve and grow (Riken 2009, 32).

A state – limited within its territory – requires effective ways to benefit its citizens (Petersmann 2013, 209); therefore, attracting multinationals' investments is also a relevant national interest. However, the granting of benefits may not be enough to ensure multinationals' long-term commitment due to their global strategies and the competitive international tax market. There may be another state offering a multinational a more significant deal.

In conclusion, a state – especially a developing one – should not engage in a worldwide tax competition without the certainty that its tax base would not be depleted. A tax benefit – including a reduction of the corporate tax rate and the certainty of double tax relief – should be a product of a private party's commitment to long-term investment in a country. Establishing clear rules for the private and public parties benefits both, leading to more certainty and efficiency.

However, multinationals – as global units – should not have a cross-border event taxed twice. The double-tax burden interferes with a corporation's ability to grow economically and its reinvesting power. Multinationals struggle to manage a large volume of compliance and reporting demands by different states and multilateral treaties. Granting multinationals with certainty and predictability can boost their confidence to make greater global investments and expand markets.

States' Alternative Sources of Revenue

A state needs to identify alternative sources of revenue to offset the revenue cost of substantially cutting down a corporate statutory rate and granting other benefits, including tax arbitration. Increasing individual income or capital gain tax rates are options for balancing out a state's finances; however, high net-worth individuals engage in sophisticated tax planning and may also not be affected by the rise. Those that have taxes withheld from their payrolls would be the most affected. However, a state is less likely to impose heavier taxation on wages as this would be an unpopular measure for a class of taxpayers that has a limited ability to pay more.

Other alternative sources of financing include taxation on consumption and environmentally harmful activities as well as property taxes (European Commission 2018, 85).

Angola, as an example, recently enacted a modern consumption tax, inspired by the value-added tax (VAT) system. Angola's main objectives are achieving economic stability and attracting

multinationals by offering them more effective tax management, fiscal neutrality, and predictability. The Angola “SLIM VAT” is to be fully implemented in 2021 (PressReader Jornal de Economia e Finanças 2019; Assembléia Nacional de Angola 2019). Although it is initially only mandatory for large corporations, other corporations may elect for it during the two-year transition period. Its standard rate is 14% on supplies of goods, services, and imports.

It is important to note that Angola – and most developing states – has had its tax base diminished by a hidden economy, a consequence of a high rate and complex corporate income tax. A simplified tax model should boost the economy, bringing out underground businesses and maximizing tax collection at a reduced state cost.

Including a state’s informal economy is a great way to efficiently enlarge and maintain a state’s tax base. Similarly, other developing countries may benefit from a VAT-type system.

Conclusions

In today’s economy, where corporations are global and states are limited to their jurisdictions, the state is the more vulnerable party. Multinationals are facing an increased risk of double taxation due to mismatches in states’ tax regulations and increased exchange of information between states as a consequence of multilateral tax treaties providing for more transparency. Furthermore, multinationals are being exposed to simultaneous audits and receiving tax adjustments that are large enough to hurt their finances and reputation.

On the other hand, a state cannot sustain a progressive corporate tax rate reduction without impacting its finances and social responsibilities. It is the state’s duty to provide for its citizens’ welfare, which includes addressing population inequalities and poverty and investing in state infrastructures. There should be no misconception that a private entity could take over these responsibilities. It is also a state’s burden to implement measures that can increase and sustain its tax base and shrink its expenditures to offset any tax benefit granted.

In a globalized economy, a tax benefit granted by a state generates a competitive reaction from other states. States have to work on a mutual solution to creating shared economic growth. No formula fits every state, but all states together may have to participate in promoting a more neutral global tax system that better balances public and private interests.

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Determinants of Entertainment and Apparel Expenditures in an American Household

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ABSTRACT: Distinct characteristics of households play an important role in the decisions made regarding expenditures. This study identifies what specific characteristics of households drive the decisions to make specific purchases such as entertainment and apparel using the Consumer Expenditure Survey Data from the Bureau of Labor Statistics (BLS, 2018) for the years 2016-17. First, we follow the log-lin regression model methodology to identify if there are clear disparities in purchasing decisions based upon the gender of the head of household (HH) and then present sub-models to identify the determinants of expenditures on apparel and entertainment for a household based upon characteristics such as income of the household, age of the head of the household, family size, number of children below age five in the household, number of earners in the household, education of the head of the household, and race and ethnicity of the head of the household as our primary independent variables. Primary model results show that there are clear differences in the determinants of total expenditures based on the sex of the head of the household. Our sub-models show that male-headed households spend more on entertainment, whereas female-headed households spend more on apparel than their counterparts.

KEYWORDS: Consumer behavior, household purchases, BLS DataSet, STATA 15, Regression Analysis, Log-Lin Regression

Introduction

There is a variety of identifiable factors from consumer feedback based on past purchasers that contribute to future sales within new and existing consumers of a certain product. Producers and suppliers aim to understand consumer behaviors and characteristics to deliver products that are relevant and meet customer expectations when making purchasing decisions. Past research on consumer buying behaviors, shows that consumer feedback through word-of-mouth (WOM) or through electronic-word-of-mouth (EWOM) is a strong driving factor in consumer purchases (Balter & Butman, 2005). Moreover, the fundamental characteristics of a household such as total income, number of members in the family, area of residence, and the sex of the decision maker in the household do matter for the decisions that the household makes in terms of its expenditures. The purpose of this study is to show which factors impact the consumption of entertainment and apparel products in a household.

Even though we begin with a short literature review of the qualitative nature of EWOM and WOM and how they impact consumer decision-making regarding purchasing products online or in stores, it is important to note that our dataset does not contain this information and therefore we have not been able to include it in our models or results. Given that existing research has shown that positive and negative reviews impact sales (Hu, Liu, & Zhang 2008), we find it crucial to include it in the literature analysis on this subject. Thereafter, we create a general model of consumer behavior based on individual characteristics and demographics and include the entertainment and apparel expenditures of a household as separate factors from all other expenditures with a view to identifying what household characteristics contribute toward these purchases. The primary hypothesis for this paper is to identify whether factors such as consumer household/personal income, monthly household expenditures of the consumer, and other exogenous demographic and socio-economic factors impact purchasing decisions regarding consumption of specific products within households.

Literature Review

Surveys shows that reviews from other consumers are one of the top influences on whether new and potential consumers buy a product. Products with more positive or favorable reviews were found to

have a higher sales-rate than other products based on the surveys conducted by Fagerstrom, Ghinea & Sydnes (2015). Yelp and TripAdvisor are two key websites and applications where customers seek and share reviews of products and services available in local areas (Wright 2015). Third party reviews such as those that are available for automobile sales on Kelly Blue Book and Edmunds websites demonstrate that consumers who visit and are active on these review sites provide information about various automobiles and thereby influence sales by word of mouth (WOM) method (Bahety 2016).

Keller & Fay (2012) conducted interviews on a weekly, monthly, and annual basis for about 36,000 participants between the ages of 13 and 69 in the United States to gather information on how word-of-mouth (WOM) and Electronic word-of-mouth (EWOM) could potentially influence the digital marketplace. The results determined that 90% of WOM conversations took place offline, while 8% were online, or EWOM. Out of the EWOM, about 32% related to entertainment brands, TV shows, and movies as compared to only 9% in the WOM settings (Keller & Fay 2012). Thus, entertainment expenditures are heavily influenced by the reviews of the product/service that are obtained through WOM or EWOM.

Hu, Liu & Zhang (2008) found that if there are more reviews about a product, consumers tend to be more trusting of the product (or merchant) and are likely to believe that product has a better value. Consumers have been found to make decisions based on e-commerce websites by reviewing variables such as price, quality, ordering, delivering, and evaluation of the product (Shih, 2010). Consumers depended upon their perceptions of the delivery costs, risk factors, and enjoyment factors when making their decisions regarding shopping for products or services (Yousaf, Altaf, Sarwar, & Shah 2012).

Other factors such as demographic and socio-economic background of consumers affects their spending decisions. Education has been found to be an important determinant of satisfaction attained by customers who make purchases. The data from Flexible Consumer Behavior Survey (FCBS) shows that households with higher education and income had higher expenditures on food, whether eaten out-of-home or purchased for home consumption (Tang, et al. 2016). Research conducted over household expenditures in the Neilson Homescan panel showed that if there the head of the household is a female, then higher levels of education of the head of the household result in a lower consumption of beef, fats and oils and increased consumption of fish and seafood, fresh fruits, and fresh vegetables (Zhen, Taylor, Muth, & Leibtag 2009). More educated consumers are likely to seek more information and rely less on advertisements when they need specific information regarding products (Harris & Shiptsova 2007). Thus, the levels of education of the primary decision-makers in a household do impact the purchasing decisions of a household.

Charron-Chénier & Mueller (2018) demonstrates that acquiring essential goods and services places different levels of financial burden to different families. The study reviewed African-American and white families and determined that racial disparities are seen in terms of insurance coverage because black households had more private insurance resulting in poorer coverage at higher costs (Charron-Chénier & Mueller 2018). Data obtained from the 1984 Consumer Expenditure Interview survey show that as household income changes, redistributions of expenditures occur and that younger consumers tend to focus on products that are inexpensive and more durable as compared to older consumers who are less price-sensitive to products. Older consumers also focus more on household expenditures to pay for needed medical supplies and services (Sawtelle 1993). The number of members in a household, the head of the household, single or marital status of the head of the household, employment status of members in the household, and number of young children impact the budget share on specific expenditures within a household (Kalwij & Salverda 2007).

It is interesting to see how the gender of the head of the household impacts the expenditures and consumption patterns of a given household. As compared to male-headed households, female-headed households consume most of their income by spending on education and food with lower expenditures on durable goods, consumer goods, housing, and other items (Fatima & Ahmad 2013). This relationship between gender and household expenditures patterns in households was also

confirmed in Ghana using data from the Living Standard Survey round four (GLSS 4) 1998-99 by Guzman, Morrison, and Sjoblom (2008).

Socio-demographic characteristics such as age sex, family income, and family size also contribute to the expenditures on leisure or entertainment activities (Scheerder, Vos, & Taks, 2011). Finding niche markets for apparel would be beneficial to a producer or supplier because the age and characteristics of the potential consumer plays a significant role in determining how much a consumer is willing and able to pay for clothing and related products (Bahng, Y., & Kincade, D. 2013). Purchase decisions are made based on garment prices, age of consumer, employment status of decision-maker, gender, region of residence, and the presence of children in the family (Fadiga, Misra, & Ramirez 2005).

Thus, we find that consumers make purchases based on their own demographic characteristics and reviews from other consumers. There is a large target market for apparel and entertainment expenditures, which are both highly price-elastic within households. Businesses can benefit from understanding the importance of the characteristics of their target consumers and recognizing the influence of consumer reviews on potential consumers. This type of care while making marketing or promotional decisions can help increase the revenues for businesses in the apparel and entertainment industries.

Methodology and Data

As seen from the literature review section, characteristics such as income, race, age, and gender impact purchasing decisions of consumers. We use the data obtained for the years 2016-2017 from the Consumer Expenditure Surveys collected by the Bureau of Labor Statistics (BLS) for estimating our models. This dataset contains detailed information regarding expenditures, income, and demographic characteristics of households and consumers in the United States (BLS, 2018). An Ordinary Least-squares Regression (OLS) general model will be used to conduct analysis of the data to determine how demographic characteristics of consumers impact their total household expenditures, and thereby their choices. The examination of household expenditures and consumer demographics will provide insight regarding the driving factors of sales of consumer goods in general, before we shift our focus to the specific characteristics that determine the apparel and entertainment expenditures of a household. Table 1 shows the key descriptive statistics for this dataset that covers a total of 5 quarters.

Since our focus is to identify what drives the expenditures among consumers in the United States, our primary dependent variable is *totexp* or the calculated total expenditure for each consumer unit (family). Out of the 60,000+ observations, only about 31,469 observations did not have missing data. Moreover, even within this data, there were some obvious errors such as values of zero assigned to total household expenditures. We were able to eliminate the missing and erroneous observations by considering the natural log of the *totexp* variable, which resulted in a total of 20,964 observations that were usable. Similar exercises on the entertainment expenditure and apparel expenditure produced only 2327 and 11,559 valid observations.

The independent variables can be split into two main categories: household income variables and household characteristics. Upon taking a natural log of the *totinc* variable, we were left with about 28,817 observations with valid data on income. Some of the key observations from the data, as seen in Table 1, are that about 47% of the households have males as the head of the household, and 51% of the households have heads of households that are married. Moreover, if we go by the race and ethnicity of the head of the household, 69% of the households are non-Hispanic white, 11% are non-Hispanic black, and 13% are Hispanic. The average family size is about 2.44 members with a standard deviation of 1.47 demonstrating that about 67% of the households have between 1 and 4 members in the sample. 89% of the households live inside a MSA and the average number of cars owned per household is 0.85 with a standard deviation of 0.85, demonstrating that a majority of households have between 0 and 2 automobiles. 24% of the households have members older than 64 living with them whereas 31% of the households have children under the age of 5.

General Regression MODEL 1: This base model is based on the Fatima & Ahmed (2013) estimates where the dependent variable is *totexp* and the independent variables are *Age*, *FamSize*,

Propchild5, *Propmem65*, *NumEarner*, *totinc*, and *roomsq*, separately estimated for Male-headed and Female-headed households.

Table 1. Descriptive statistics for Dependent and Independent Variables

Variable	Description	N	Mean	SD	Min	Max
Dependent Variables						
Expenditures						
<i>totexp</i>	Total calculated other expenditures	31649	33,315	42,611	0	899,000
<i>Intotexp</i>	Natural log of total expenditures	20964	10.55	0.76	3.47	13.71
<i>entertainexp</i>	Entertainment expenditures	31649	148	3,657	0	367,000
<i>Inentexp</i>	Natural log of entertainment expenditures	2327	6.04	1.51	0.98	12.81
<i>apparexp</i>	Total annual apparel and service expenses	31649	296	1,303	0	168,000
<i>Inappexp</i>	Natural log of apparel and service expenses	11559	4.52	1.31	-1.1	10.65
Independent Variables						
Household Income						
<i>totinc</i>	Total calculated income for Household	31649	63,087	83,438	0	2,020,000
<i>Intotinc</i>	Natural log of Total Income	28817	10.56	1.27	0	14.52
Household Characteristics						
<i>sex</i>	=1 if HH is male, 0 otherwise	31649	0.47	0.5	0	1
<i>age</i>	age of reference person	31649	51.71	17.49	16	87
<i>white</i>	=1 if non-Hispanic white, 0 otherwise	31649	0.69	0.46	0	1
<i>black</i>	=1 if non-Hispanic black, 0 otherwise	31649	0.11	0.31	0	1
<i>Hispanic</i>	=1 if Hispanic Origin, 0 otherwise	31649	0.13	0.34	0	1
<i>otherrace</i>	=1 if non-Hispanic other race, 0 otherwise	31649	0.07	0.25	0	1
<i>education</i>	Education of Reference person	31649	4.41	1.68	0	7
<i>married</i>	1=ref person is married, 0 otherwise	31649	0.51	0.5	0	1
<i>FamSize</i>	total members in household	31649	2.44	1.47	1	15
<i>numchild</i>	No. of children younger than 17 in family	31649	0.5	0.97	0	10
<i>propchild5</i>	proportion of children<5	31649	0.31	0.53	0	4
<i>propmem65</i>	proportion of members>64	31649	0.24	0.4	0	1
<i>NumEarner</i>	number of CU members earning income	31649	1.26	0.97	0	10
<i>roomsq</i>	number of rooms in CU living quarters	31338	5.85	2.24	1	69
<i>smsastat</i>	=1 if reside inside MSA, 0 otherwise	31649	0.89	0.31	0	1
<i>NumAuto</i>	total number of owned cars	31649	0.8	0.85	0	11

Source: Consumer Expenditure Surveys 2016-2017 (BLS, 2018)

Keeping in line with how literature generally accounts for the non-linear aspects of expenditure and income, we create a slightly different model by using natural log values of expenditures and income. We also expand this model by adding other exogenous variables to test for other factors that could impact expenditures within a household. Thus, the expanded models with dependent variable *Intotexp* are as given below. It is important to note here that since these are Log-Lin Models, the interpretations of the slopes obtained have to be done with more care.

Log-Lin General Model, MODEL 2: This model is similar to Model 1 but with *Intotexp* being the dependent variable and the independent variables being *Age*, *FamSize*, *PropChild5*, *Propmem65*, *NumEarner*, *Intotinc*, *roomsq*, *smsastat*, *education*, *white*, *black*, *Hispanic*, *NumAuto*, and *married*. The focus of this paper is to show what factors play a role in the decisions to spend money on entertainment and apparel in households. To that end, we include the expenditures made on entertainment and apparel as independent variables in the Log-Lin General Model to find if they impact the total expenditures of a household significantly or not.

General Model with Entertainment and Apparel expenditures included, MODEL 3: This model is an expansion of Model 2 with *Inentexp* and *Inappexp* being additional independent variables included. To identify the factors that impact the expenditures on entertainment and apparel in a household, we will run two additional models with the dependent variables identified as the *Inentexp* and *Inappexp*, including the total expenditure of the household as an independent

variable. We start by estimating the model by including the sex of the head of the household as an independent variable, and later split each Model into parts (a) and (b) by Female and Male head of household.

Log-lin Models with Entertainment/Apparel as dependent variables, MODELS 4 and 5:

These models have *lnentexp* and *lnappexp* as dependent variables respectively. The independent variables included in this model are *Age*, *FamSize*, *PropChild5*, *Propmem65*, *NumEarner*, *Intotinc*, *roomsq*, *smsastat*, *education*, *white*, *black*, *Hispanic*, *NumAuto*, *married*, and *sex*. We estimate these models by head of household separately as well, by removing the *sex* variable.

Results

Before we discuss the results of the models that we estimated using STATA 15.0, it would be interesting to study the fundamental differences between male-headed and female-headed households in terms of their total income levels and total expenditure levels, with special focus on entertainment and apparel expenditures. It is important to note that we have assigned male-headed and female-headed households based upon the reference person who responded to the survey. We are making a big assumption, therefore, that these individuals are indeed the respective head of the households. So, we must be careful while interpreting these data. However, if we function under the assumption that if the reference person is indeed the one who is proactively responding to the survey, they might very well be the individual in the household who makes key expenditure-related decisions.

Table 2 indicates that the mean income for male-headed households is about \$14,000 more than that for female-headed households. The mean expenditures are also higher in male-headed households, but only marginally, by about \$2,000 per year. The variance suggests that there is more fluctuation in income and expenditures in male-headed households as compared to female-headed households. About 47% of the households in our dataset are headed by males with females heading the remaining 53% of the households. Moreover, the entertainment and apparel expenditures are drastically different between the two types of households. Male-headed households have lower average expenditures on entertainment as compared to female-headed households, but the standard deviations show that the fluctuations are higher in male-headed households for entertainment expenditures than their counterparts. On the other hand, when considering apparel related expenditures, male-headed households have lower mean expenditures and a lower standard deviation showing that female-headed households spend more on apparel as compared to their counterparts.

Now, let us consider the results from our base and modified models, namely Models 1, 2, and 3 that use *totexp* as the dependent variable to understand the differences in the characteristics of household expenditure and consumption among male and female-headed households.

Model 1 Results: With an intercept of \$2,870.62 and \$1,255.10 for male versus female-headed households in Model 1 results, there is a marked, albeit statistically insignificant, difference between the base level spending between the two types of households, if all the other variables had a value of 0. Each additional year of age of the head of the household increases the expenditures by \$83 in male-headed and \$87 in female-headed households. Each additional member in the family increases the expenditures by about \$1526 for male-headed and \$949 for female-headed households. The curious outcome is the impact of an increase in the number of children below the age of five in each type of household. Male-headed households show a decline in total expenditures while female-headed households show an increase in the total expenditures. Since these values are not statistically significant in Model 1, we cannot say with any certainty if this is indeed the case. Additional earners in the family unit increases expenditures by about \$1269 for male-headed households, and a whopping \$2630 (more than double) for female-headed households. For each added dollar of income, the household expenditure increases by 12 cents for male-headed households versus 14 cents for their counterparts. Each additional room in the residence increases the total annual expenditure by \$2,352 for male-headed and \$2,196 for female-headed households,

indicating that there is no significant difference in the impact of number of rooms between the two types of households.

Table 2. Total Income and Total Expenditure Summaries by Sex of Head of Household

Head of HH	Mean Income (Std. Dev.)	Mean Expenditures (Std. Dev.)	Mean Entertain Expenses (Std. Dev.)	Mean Apparel Expenses (Std. Dev.)	Frequency Percentage
Female	56,483.26 (76,390)	32,456.92 (41,090)	122.49645 (2,403)	314.76283 (1,587)	16,708 52.79%
Male	70,471.28 (90,105)	34,275.34 (44,232)	175.84133 (4,676)	275.47884 (882)	14,941 47.21%
Total	63,086.79 (83,438)	33,315.37 (42,611)	147.67974 (3,657)	296.21747 (1,303)	31,649 100.00%

Source: Consumer Expenditure Surveys 2016-2017 (BLS, 2018)

Model 2 Results: For Model 2, we have used the Log-Lin Model and expanded the number of independent variables included in the base model, to capture some of the observations from the literature. We have also considered the natural log of the total income instead of the *totinc* variable, which accounts for a partial log-log model. Thus, we must be cautious while interpreting the results from the regression analysis. The intercept does not reflect a significant difference between male and female-headed households. Each added year of age of head of household increases total expenditures by 0.2% in male-headed and 0.3% in female-headed households. If family size increases by 1 member, the expenditures for both types of households increase by a comparable 4.4%. Here, the most interesting result lies in the impact of an additional child below the age of five. In male headed households, the impact is not significant but in female-headed households, the total expenditures increase by about 3.6% per year! All other variables except the race and ethnicity variables behave similarly for both types of households. Race and ethnicity variables are compared to the omitted category of *otherraces*, which includes Asian, Pacific-Islanders, mixed-race, and unknown. Non-Hispanic white, non-Hispanic black, and Hispanic are all mutually exclusive categories. Results of Model 2 show that white male-headed households spend equivalently to male-headed households of *otherraces* (coefficient is not statistically significant) but black male-headed households spend about 12% less and Hispanic male-headed households spend about 6.7% less than the *otherrace* male-headed households. On the female-headed households front, all three, namely white, black, and Hispanic female-headed households spend 6.6%, 15%, and 12% less than their *otherrace* counterparts, all other variables being constant. If the head of the household is married, there is an increase in expenditures by about 22-23% regardless of the sex of the head of the household.

Model 3 Results: Model 3 results reflect similar outcomes and differences between male and female-headed households. It is also interesting that our sample size went down to about 10% of the original sample once we included these the entertainment and apparel expenditure variables due to missing information within these categories in the dataset. Curiously enough, the impacts of variables such as education, race/ethnicity, and marriage show drastic differences once the entertainment and apparel expenditures were added as independent variables to Model 2. The direct impact of educational level of head of household decreased by about 3% in both male and female-headed households. The expenditures for white, black, and Hispanic male-headed households decreased significantly and sizably as did the expenditures for white, black, and Hispanic female-headed households as compared to their *otherrace* counterparts.

The coefficients of the marriage variable also declined sizably and significantly in both male and female-headed household models. Since the entertainment and apparel expenditure variables are also in the log form, their coefficients reflect the elasticity of total expenditures with respect to these. A 1% increase in entertainment expenditures results in a 0.07% increase in total expenditures for male-headed households and 0.08% increase in total expenditures for female-headed households. A 1% increase in apparel expenditures results in a 0.09% increase in total expenditures

for male-headed and 0.14% increase in total expenditures of female-headed households. Thus, there are some significant interactions going on between the entertainment and apparel expenditures and the other independent variables in this model.

Table 3. OLS Regression Results: Model 1 (base), Model 2 (log-lin), Model 3 (expanded log-lin)

Independent Variables	Model 1		Model 2				Model 3	
	Dependent variable: totexp		Dependent variable: Intotexp				Dependent variable: Intotexp	
	Male HH	Female HH	Male HH	Female HH	Male HH	Female HH		
constant	2,870.624 (1.78)	1,255.103 (0.81)	7.690 (115.70)	* 7.647 (117.43)	7.447 (34.25)	* 7.329 (33.93)		
Age	83.142 * (2.75)	86.979 * (3.16)	0.002 * (2.79)	0.003 * (6.33)	0.004 * (2.41)	0.008 * (4.78)		
FamSize	1,526.090 * (3.69)	949.625 * (2.92)	0.044 * (5.37)	0.044 * (6.39)	0.033 (1.64)	0.029 (1.61)		
PropChild5	-583.736 (-0.57)	1,445.684 (1.79)	-0.005 (-0.25)	0.036 * (2.26)	-0.034 (-0.73)	0.044 (1.12)		
PropMem65	-155.455 (-0.11)	-265.940 (-0.22)	0.022 (0.89)	-0.004 (-0.16)	0.033 (0.42)	-0.079 (-0.96)		
NumEarner	1,269.930 * (2.50)	2,630.185 * (6.16)	0.061 * (6.28)	0.081 * (9.21)	0.019 (0.68)	-0.022 (-0.92)		
totinc (Intotinc)	0.117 * (28.06)	0.141 * (32.84)	0.170 * (29.49)	0.163 * (28.99)	0.155 * (8.11)	0.155 * (8.04)		
roomsq	2,351.976 * (14.06)	2,196.408 * (14.53)	0.043 * (13.97)	0.042 * (13.93)	0.046 * (5.26)	0.029 * (3.40)		
smsastat			0.134 * (6.43)	0.126 * (6.48)	0.289 * (3.85)	0.026 (0.41)		
education			0.077 * (18.83)	0.084 * (20.75)	0.035 * (2.78)	0.054 * (4.17)		
white			-0.023 (-0.91)	-0.066 * (-2.64)	-0.129 * (-2.13)	-0.199 * (-2.81)		
black			-0.126 * (-3.93)	-0.150 * (-5.15)	-0.289 * (-3.01)	-0.291 * (-2.92)		
Hispanic			-0.067 * (-2.23)	-0.122 * (-4.18)	-0.127 (-1.51)	-0.290 * (-3.19)		
NumAuto			0.040 * (5.36)	0.034 * (4.73)	0.036 (1.87)	0.026 (1.32)		
Married			0.232 * (14.86)	0.219 * (15.76)	0.124 * (2.57)	0.162 * (3.68)		
Inentexp					0.070 * (6.07)	0.080 * (6.85)		
Inappexp					0.093 * (6.47)	0.137 * (9.48)		
No. Of Obs.	14799	16539	8,802	10,172	838	901		
R-squared	0.1064	0.1304	0.3884	0.3852	0.4447	0.4521		

**t-stats are in parentheses; Asterix indicates that the coefficients are significant at 95%.

Source: Consumer Expenditure Surveys 2016-2017 (BLS, 2018)

Table 4 shows the results from Models 4 and 5, which consider the entertainment and apparel expenditures respectively as the dependent variables. These are also log-lin models and should be interpreted with care. Before we discuss the results of the models by head-of-household, let us quickly look at the general results for all households in terms of expenditures on entertainment and apparel (Model 4 and Model 5 “All”). In the case of entertainment expenditures, there are only 2,217 households in the sample and there are 10,727 households in the apparel expenditures model.

The R^2 values for each indicate that only about 12% of the variation in entertainment expenditures can be explained using Model 4, whereas 23% of the variations in apparel expenditures can be explained using Model 5. The variable *sex* refers to the sex of the head of the household and we see that male-headed households have higher entertainment expenditures than female-headed households, while female-headed households have higher apparel expenditures than male-headed households. This confirms what we had initially seen in Table 2. A 1% increase in total income results in a 0.107% increase in entertainment expenditures and a 0.038% increase in apparel expenditures.

Living in an MSA reduces entertainment expenditures by 34%, which is a very surprising result because it contradicts the general belief that living in MSAs would result in easier access, and therefore higher spending on entertainment. On the other hand, living outside MSAs could result in having to travel, and therefore spending higher amounts on entertainment than those that live within MSAs. Families with a white head-of-household spend 35% more than the non-white head-of-household families on entertainment. An equivalent impact is not seen in black or Hispanic headed households. A higher number of cars reduces the entertainment expenditures at 8% per additional automobile. Moreover, as total expenditures increase by 1%, the entertainment expenditure increases by 0.69%. If we compare these to the apparel expenditures, we find that households with a black head of household spend about 15% more on apparel than others and households with Hispanic head of household spend about 19.7% more on apparel than others. While the marriage variable does not impact entertainment expenditures, it does have a negative impact of about 5.7% on apparel expenditures. An increase of 1% in total expenditures results in an increase of 0.778% on apparel purchases.

Results of Models 4a and 4b: Both Models 4a and 4b have low R^2 values, 0.1178 and 0.1362 respectively, showing that the identified determinants are not explaining too much of the variation in entertainment expenditures of a household. However, there are some key differences that can be seen between the male-headed and female-headed households in terms of entertainment expenditures. As income increases by 1% in male-headed households, the entertainment expenditures increase by about 0.15%, while there is no significant impact of income increase in female-headed households. Similarly, while MSA residency decreases entertainment expenditures by 42% in male-headed households, there is no impact measured in female-headed households in our sample. White male-headed households spend 44% more on entertainment expenditures as compared to other male-headed households but there is no significant impact seen in female-headed households of any race or ethnicity. While number of automobiles is not a significant determinant of entertainment expenditures in male-headed households, each additional vehicle in female-headed households reduces entertainment expenditures by 9%. Male-headed households only show an impact of 0.65% increase in entertainment expenditures for every 1% increase in total expenditures, but female-headed households show a 0.72% increase.

Results of Models 5a and 5b: The results of Models 5a and 5b that consider apparel expenditures as the dependent variable are a little more robust than Model 4 results with coefficients of determination of 0.2408 and 0.2292, respectively for male and female-headed households. Age plays a significant role in reducing apparel expenditures for both types of households, at comparable values of 0.6% and 0.7% respectively. An increase in family size results in an 8% increase in apparel expenditures in male-headed households, but there is no significant impact on apparel expenditures in female-headed households. An increase in the number of children under 5 years of age increases apparel expenditures in female-headed households by about 15% but has no significant impact in male-headed households.

Interestingly, an increase in the number of earners in male-headed household reduces expenditures on apparel by 7% but has no impact in female-headed households. Black female-headed households have 16% higher and Hispanic female-headed households have 20% expenditures on apparel than other female-headed households. Another surprising result is that married male-headed households do not show any impact on apparel purchases, but married female-headed households spend 14% less on apparel than their counterparts. Each additional percent of

total expenditures results in a 0.81% increase for male-headed and 0.74% increase for female-headed households in apparel expenses.

Table 4. OLS Regression Results: Model 4 (Inentexp) and Model 5(Inappexp)

Independent Variables	Model 4 Dependent Var: Inentexp			Model 5 Dependent Var: Inappexp		
	All	Male HH (4a)	Female HH (4b)	All	Male HH (5a)	Female HH (5b)
constant	-2.450 *	-2.167 *	-2.521 *	-4.008 *	-4.350 *	-3.794 *
	-(4.26)	-(2.59)	-(3.16)	-(20.53)	-(14.77)	-(14.56)
Sex	0.141 *			-0.116 *		
	(2.29)			-(5.10)		
Age	0.000	-0.002	0.003	-0.006 *	-0.007 *	-0.006 *
	-(0.15)	-(0.50)	(0.73)	-(6.01)	-(4.76)	-(4.61)
FamSize	-0.055	-0.063	-0.037	0.041 *	0.080 *	0.018
	-(1.55)	-(1.14)	-(0.79)	(3.10)	(3.66)	(1.04)
PropChild5	-0.123	-0.147	-0.084	0.129 *	0.070	0.152 *
	-(1.58)	-(1.16)	-(0.84)	(4.26)	(1.43)	(3.88)
PropMem65	-0.204	-0.205	-0.214	-0.100 *	-0.124	-0.065
	-(1.46)	-(1.04)	-(1.07)	-(2.13)	-(1.77)	-(1.03)
NumEarner	0.021	-0.027	0.058	-0.042 *	-0.077 *	-0.020
	(0.46)	-(0.38)	(0.93)	-(2.47)	-(2.92)	-(0.90)
Intotinc	0.107 *	0.156 *	0.053	0.038 *	0.032	0.044 *
	(3.01)	(3.06)	(1.07)	(3.27)	(1.87)	(2.81)
roomsq	0.017	0.024	0.008	0.000	-0.013	0.015
	(1.07)	(1.04)	(0.35)	(0.08)	-(1.69)	(1.91)
smsastat	-0.342 *	-0.421 *	-0.240	0.044	0.040	0.040
	-(3.09)	-(2.47)	-(1.63)	(1.04)	(0.60)	(0.75)
education	-0.030	-0.037	-0.021	0.000	-0.013	0.009
	-(1.36)	-(1.15)	-(0.65)	(0.04)	-(1.15)	(0.80)
white	0.350 *	0.440 *	0.163	0.042	0.031	0.051
	(2.93)	(2.74)	(0.90)	(0.94)	(0.48)	(0.84)
black	0.265	0.230	0.205	0.154 *	0.142	0.163 *
	(1.50)	(0.92)	(0.81)	(2.87)	(1.73)	(2.28)
Hispanic	0.281	0.290	0.151	0.197 *	0.189 *	0.202 *
	(1.80)	(1.32)	(0.67)	(3.75)	(2.42)	(2.85)
NumAuto	-0.080 *	-0.071	-0.094 *	-0.025	-0.022	-0.027
	-(2.45)	-(1.41)	-(2.16)	-(1.80)	-(1.07)	-(1.44)
Married	-0.072	-0.205	0.084	-0.057 *	0.053	-0.143 *
	-(0.88)	-(1.67)	(0.75)	-(2.04)	(1.21)	-(3.93)
Intotexp	0.690 *	0.650 *	0.723 *	0.778 *	0.816 *	0.748 *
	(12.52)	(8.04)	(9.46)	(39.60)	(27.23)	(28.76)
No. of Obs.	2,217	1,099	1,118	10,727	4,882	5,845
R-squared	0.1241	0.1178	0.1362	0.2324	0.2408	0.2292

**t-stats are in parentheses, Asterix indicates that the coefficients are significant at 95%

Source: Consumer Expenditure Surveys 2016-2017 (BLS 2018)

Conclusions

Our findings from all the Models indicate that male and female-headed households behave very differently in terms of their expenditure profiles. Factors such as age of head of household, education, total income, family size, number of earners in the family, number of children below age five, residing in MSA, number of cars, race, ethnicity, and marital status all contribute to determining household expenditures. The models presented in this paper are able to explain about 38% of variation in household expenditures based on these characteristics and therefore offer an insight into how male and female

households can be targeted differently by producers and suppliers who are attempting to increase their marketing effectiveness.

Expenditures on entertainment are higher in male-headed households that are also likely to have higher incomes than female-headed households. Moreover, white male-headed households have much higher entertainment expenditures than other male-headed households. On the other hand, expenditures on apparel are higher in female-headed households, with black and Hispanic female-headed households showing a higher propensity to consume apparel as compared to other female-headed households. A marginally sexist observation is also that households with married women as the head of the household are likely to spend about 14% less on apparel than their counterparts. This paper is not in any way a complete picture of what determines expenditures on apparel or entertainment for a family in the United States. There are too many preferences, choices, and other tangible or non-tangible determinants that still need to be identified and studied in a meaningful manner. However, this paper is the first step in beginning to identify the determinants of specific types of expenditures that occur within all households.

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CEO Compensation Trends in the Republic of Serbia in the Context of EU Integration

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ABSTRACT: CEO compensations are an effective instrument for adjusting the interests of managers and equity owners, so that full engagement and commitment can only be expected of managers who are sufficiently motivated. Among other things, sufficient motivation is achieved by the use of adequate CEO compensations. This paper analyzes applied models of CEO compensation, and their levels, in the Republic of Serbia and EU member countries. Comparison of CEO compensation in the Republic of Serbia and EU countries will enable the positioning of the Republic of Serbia in the context of EU integration; as well as enable Serbian business organizations to track trends that are current, and structure their CEO compensations to meet managers' expectations in terms of attractiveness, and equity owners in terms of cost efficiency. The paper will try to determine the existing differences in CEO compensation levels, conditioned by the degree of economic development of the observed countries. The paper will analyze the factors that directly or indirectly affect the level of CEO compensation. It will try to determine which components of CEO compensation are mostly used in business organizations from the EU, and compare the results with business organizations from the Republic of Serbia in order to improve existing practice. As CEO compensations are still underdeveloped area in the Republic of Serbia, the contribution of the paper is expected to be significant, for Serbian business organizations that operate, or plan to operate, on the international market, and allow their managers to work in EU countries. Strategy and policy of CEO compensation is a very sensitive area, so the focus of the paper is on identifying existing differences that could be used in terms of convergence of the CEO compensation practice in the Republic of Serbia to the one that is present in the more advanced EU countries, in the context of EU integration.

KEYWORDS: CEO compensation, Republic of Serbia, EU integration, compensation trends

Introduction

CEO compensation models, which significantly influence the desired performance of managers, are of great interest to the scientific and professional public. The paper analyzes applied models of CEO compensations, and their levels, in the case of selected EU countries and the Republic of Serbia. In this regard, the applied models of CEO compensations are considered, as well as their basic components, the comparison of the observed sample of countries is carried out, as well as the adequate modeling of CEO compensations in order to achieve and maintain the competitive advantage in the global market. According to the conducted research (Kotnik et al. 2017) EU managers (especially in the UK, Germany and France) make the highest compensations. The EU countries also have the highest ratio between CEO compensations and compensation of other employees (Kotnik et al. 2017). Within the EU, the highest level of compensation is earned by managers in the United Kingdom, Germany and France (Equilar 2016). The degree of economic development, as well as many other factors, directly or indirectly affect the level of CEO compensation. Comparison of CEO compensation in the Republic of Serbia and EU countries will enable the positioning of the Republic of Serbia in the context of EU integration; as well as enable Serbian business organizations to track trends that are current, and structure their CEO compensations to meet managers' expectations in terms of attractiveness, and equity owners in terms of cost efficiency.

CEO compensation trends and developments

The CEO compensation strategy implies the development and application of rewarding policies, processes and practices over a longer period of time, in order to achieve business goals (Amstrong & Murlis, 2014). The CEO compensation strategy enables achievement of the organizational business performances, and accordingly it needs to be developed and firmly linked to the planned business outcome and human resource management strategy. In order to achieve and maintain competitive

advantage, each business organization develops an adequate CEO compensation model that supports the business strategy realization.

Size of business organization, organization growth opportunity, risk, capital structure, ownership structure and the age of managers have the most significant influence on CEO compensation models (Polak et al., 2014). The size of a business organization is of great importance for the level of CEO compensation, due to the demands for the management of the highest quality and significant business skills and experience. Highly qualified and experienced managers at the highest management positions require significant and custom-made compensation models, due to the nature and responsibility of the work they perform. The capital structure is important in determining salary, as the basic component of the CEO compensation models, which determines the demand of managers for optimal capital structure. The ownership structure of the business organization also has an impact on the salary level within the compensation model. Business organizations that are in majority state ownership generally have more modest CEO compensations, in contrast to organizations in majority private ownership. The managers' age also influences the level and applied the model of CEO compensation. Older managers are focused on long-term goals, while younger managers place emphasis on short-term goals.

The applied CEO compensation model should be competitive in comparison with related business organizations. The CEO compensation model should also be attractive enough and tempting, which is achieved by an adequate combination of material and immaterial, fixed and variable components of the compensation model (Marinović-Matović & Marinović 2011). The fixed component of the compensation model provides security and the required level of living standard to managers. The variable component of the compensation model motivates managers to achieve desired business performances.

The structure and scope of CEO compensation models represent the choice of each business organization. A fixed component of the compensation model contains the basic salary and benefits, while the variable component includes short-term and long-term incentives (Buble & Bakotić 2013). Long-term incentives, as an element of total CEO compensation, have been designed with the aim of achieving long-term goals. The amount of incentives depends on the achievement of business organization's goals. The manager can earn a significant reward, in case of achieving or exceeding the given business performance. The payment of this compensation component is based on the value achieved for shareholders or the financial performances of a particular organizational unit. Forms of long-term incentives are different; most are based on the involvement of managers in the ownership of a business organization (Marinović Matović & Marinović 2011).

In order to change the location of top managers, it is necessary to apply a unique reward strategy and the structure of CEO compensations. The CEO compensation models in dislocated parts of a business organization most often imply an identical reward strategy and applied models that are present in the home country. Determining the size and the structure of the CEO compensation is within the scope of the supervisory board, remuneration committee and rewarding advisers. The supervisory board oversees the work of the board of directors, directs and controls the remuneration policy, and decides on CEO compensation models for the highest management levels. The remuneration committee provides support and assistance to the supervisory board in determining the CEO compensation model, while the rewarding advisor defines competitive and responsible compensation models for the highest management structure (Galetić 2012).

CEO compensation landscape in EU and the Republic of Serbia

The most important components of the CEO compensation models in the EU countries are benefits, perquisites and long-term incentives (Mercer 2013). In the EU countries, short-term material incentives are equally important. The salary increase in 2012 was realized in a significant amount with managers in EU countries, compared to the managers of other European countries (Mercer 2013). Business organizations in Europe centralized decision-making on CEO compensations through management teams.

The interest of the scientific public in most EU countries has been focused on CEO compensation models for years, emphasizing the need to increase the control of these models, which implied new legislation. A few years after the global economic crisis outbreak, in 2012, business organizations from the EU countries conducted salary freezing, including primarily managers' salaries (Mercer 2013). Opinion on the level and structure of CEO compensations has led to new tax regulations in certain EU countries, aimed at taxing higher levels of material rewards. During 2012, the financial sector enabled the payment of incentives, postponed in the previous years. Deferred incentives payment has been introduced in most EU countries since the beginning of 2011, due to new EU regulations regarding the capital level for credit and investment institutions, which covers 43% of business organizations. The share of managers who did not exercise the right to long-term incentives in the total number of managers dropped from 26% in 2011 to 22% in 2012 (Haygroup 2013). Long-term incentives in business organizations in EU countries have not changed since 2012. Since 2013, EU countries have paid attention to the public data on the amount and structure of the CEO compensation models. Business organizations of EU countries have accepted the awareness of compensation risks and included them in the process of managing other strategic and operational risks.

Models of CEO compensations are similar in the largest business organizations of the EU countries. The data show that 56% of the total CEO compensation in Europe make incentives, while the remaining 44% are salaries (Haygroup 2013). Long-term incentives are becoming more and more one of the most important components of the compensation model in EU. Compensation at the highest management levels, including short-term incentives, amounts to around 1.3-1.4 million EUR gross, annually. The amount of long-term incentives, in the form of stock options, is at the level of around 76,500 EUR. During 2013, the average amount of CEO compensation in business organizations with over 100,000 employees amounted to 1.35 million EUR gross per year. This amount includes 660,000 EUR of basic salary and 690,000 EUR of short-term incentives (Pedersen & Partners 2013). The global survey, conducted by Pedersen & Partners in 2013, included a sample of 1,700 managers from 17 national economies and 330 business organizations (Pedersen & Partners 2013). This survey provided information on the basic salary within the CEO compensation model, which was increased by 5.5% in relation to 2012. The total amount of CEO compensation was increased by 3.4% (including short-term incentives). EU countries are characterized by the highest level of CEO compensation, closely related to the size of a business organization. The survey provided information that CEO compensations were increased by an average of 4-5% in EU countries, and 7-10% on average in developing economies. The average amount of CEO compensation in major EU business organizations during 2013 and 2014 amounted to EUR 1.4 million annually. This amount of compensation was increased by 3.5% compared to the previous business year, and the CEO compensation included the basic salary in the amount of 681.000 EUR and short-term incentives in the amount of 719.000 EUR gross (Pedersen & Partners 2013).

Table 1. Average CEO compensation at annual level (gross) in 2013

Country	Average CEO compensation (EUR)
United Kingdom	220.200
Germany	215.000
French Republic	181.400
The Republic of Serbia	72.800

Source: Pedersen & Partners 2013

Table 1 shows the average values of CEO compensations in selected EU countries for 2013. The CEO compensations include basic salary and short-term material incentives (total gross cash compensation). The data relate to business organizations with 200-300 employees. According to the survey, the forecast of salary increase in 2016 was as follows: Germany 3.0%, United Kingdom: 3.0%, French Republic: 2.5% and the Republic of Serbia 5.5% (Mercer 2014).

The trend of increase in CEO compensations is present in business organizations in United Kingdom, where in 2011, as many as 79% of managers received compensations higher than it was planned. The trend of compensation growth continued in 2012.

Table 2. Average CEO compensation in the United Kingdom in 2013

Number of employees	Basic salary (EUR)	Cash incentives (EUR)	Total material compensation (EUR)	Incentives in stock options (EUR)
Over 100.000	747.200	544.100	1.291.300	31.200
20.000 to 50.000	515.700	258.100	773.800	Salary increase
				4%

Source: Pedersen & Partners 2013

Table 2 shows the average CEO compensations in the UK in 2013. The average CEO compensation includes basic salary, cash incentives, total material compensation, as well as stock options and salary increases. The data are divided according to the business organization size, with over 100,000 employees and those from 20,000 to 50,000 employees. We can compare this information with the amount of compensation for other UK employees. The Hudson Annual Compensation Review for 2015 shows the range of compensation on annual basis in certain UK cities (Hudson 2015). The compensation includes the basic salary, pension contributions, incentives and stock options. According to data from Hudson, the lawyers' annual compensation in London for 2015 ranges to a maximum of 67,500 GBP. In the UK public business organizations operating in cities such as Birmingham, Bristol and Manchester, the lawyers' annual compensation ranges from 39,000 GBP to a maximum of 44,000 GBP, while in small and medium-sized business organizations, the compensation amounts to a maximum of 31,000 GBP (Hudson, 2015).

In business organizations in Germany, during 2007 and 2008, average CEO compensations amounted to 127,113 EUR and 120,581 EUR (Koch & Stadtmann 2013). Short-term incentives (variable component of compensation), which were 47% and 49% of the total compensation, was singled out as the most important component of CEO compensation, followed by a fixed component (salary), with a share of 33% and 29% of the total compensation. The highest compensation amounted to 682,438 EUR, the average compensation amount was 125,492 EUR, while the lowest compensation amounted to 21,228 EUR (Koch & Stadtmann 2013).

After the observed period, starting from 2008 until 2011, the impact of the global economic crisis has also been intense in the field of CEO compensations and compensations of high-qualified experts within the German chemical industry. In 2009, Germany was heavily affected by the economic crisis, which led to a 5% reduction in GDP (Grund & Walter 2013). The incentive payments significantly decreased during the crisis, and the repeated economic growth from 2011 resulted in a CEO compensations increase to amounts higher than in pre-crisis period.

During the economic crisis, there was a noticeable decline in CEO compensations within the German chemical industry. Although the German chemical industry accounts for 15% of total German exports and Germany is the world's largest exporter of chemical products, the economic crisis negatively influenced this sector, which was manifested by a 15% drop in sales. The basic component of CEO compensations was a fixed salary (81%), while the incentives amounted to 15%, and the stock options were 4% of the total compensation (Grund & Walter 2013). The reduction in wages was felt by only 9% of employees in this sector, whose wage declined from 2008 to 2011, while 7% of managers felt the reduction of their compensation packages.

Table 3 presents the average CEO compensations in Germany for 2013. It includes the amount of basic salary, cash incentives, total material compensation, as well as stock options and salary increases. Data includes business organizations with over 100,000 employees and those employing between 20,000 and 50,000 workers. The basic salary in Germany is lower than the basic salary in the UK, while the amount of cash incentives is higher in Germany than in the UK. The total material compensation was higher in Germany than in the UK.

Table 3. Average CEO compensation in Germany in 2013

Number of employees	Basic salary (EUR)	Cash incentives (EUR)	Total material compensation (EUR)	Incentives in stock options (EUR)
Over 100.000	701.100	740.000	1.441.100	95.000
20.000 to 50.000	495.000	319.000	814.000	Salary increase
				4%

Source: Pedersen & Partners 2013

The global economic crisis has caused some changes in the regulation of CEO compensations in the French Republic. In 2012, the French government imposed limitations on compensation in state-owned business organizations and increased control over the stock options as long-term incentives. Taking into account the level of CEO compensation, the French Republic introduced a tax rate of income of 75%. French business organizations reimburse employees with more than 35 hours per week in the form of contributions, as well as 50% of the transport costs, through salary or separately from salary. In the French Republic, starting from 01.01.2018, the minimum salary per hour is 9.88 EUR gross, which is a significant increase compared to 9.43 EUR in 2013. As shown in Table 4 in the same observed period, the monthly minimum salary increased to 1.498,47 EUR gross in 2018, based on 35 working hours per week, compared to EUR 1,430.22 in 2013 (JDN 2018).

Table 4. Minimum salary in business organizations of the French Republic in 2013-2018

	Monthly minimum salary gross (EUR)	Minimum salary per hour gross (EUR)	Monthly minimum salary net (EUR)
1.1.2013.	1.430,22	9,43	1.120,43
1.1.2014.	1.445,38	9,53	1.128,70
1.1.2015.	1.457,52	9,61	1.135,99
1.1.2016.	1.466,62	9,67	1.143,72
1.1.2017.	1.480,27	9,76	1.153,00
1.1.2018.	1.498,47	9,88	1.173,00

Source: JDN (April 13, 2018)

The business organizations of the French Republic since 2015 have been focused on retaining of key employees and aligning salaries with collective agreements. French multinational business organizations have different compensatory policies for mature markets and emerging markets. Differences are reflected in defining salaries according to the position in the business organization, in strong relationship between compensation and achieved performances, in the process of career development.

A survey on the CEO compensation structure in the Republic of Serbia included the average compensation analysis, and was conducted by the Delegation of the German Economy in Serbia and the German-Serbian Economic Association, in cooperation with Kienbaum Management Consultants in 2012 (Vučković 2012). The survey included 21 business organizations in private ownership of domestic and foreign capital, and a total of 1,012 employees working in 25 positions (Vučković 2012). The research involved: the mechanical sector (24%), the financial sector (18%), the electronic sector (14%), chemical and pharmaceutical sector (14%), metal sector (10%), food sector with tobacco industry (10%) and transport and logistics sector (10%).

CEO compensation, according to this research, is characterized by significant amounts. The gross compensation of general managers ranges from 2,500,000 to 13,500,000 RSD, the leading managers from 450,000 to 8,500,000 RSD, the department managers from 250,000 to 3,600,000 RSD. Observed at the average level and by certain executive positions, the average amount of CEO compensation (gross) is: 5,399,000 RSD (general manager), 3,122,000 RSD (sales manager),

2,061,000 RSD (marketing manager), 2,313,000 RSD (key account manager), 2,232,000 RSD (financial manager), 1,620,000 RSD (control manager), 1,835,000 RSD (human resource manager), 1,762,000 RSD (transport and logistics manager), 1,538,000 RSD (facility manager), 1,477,000 RSD (development manager) (Vučković, 2012).

The results of the research have shown that the variable components of CEO compensation represent a very small percentage of total compensation. The percentage of participation of variable components in total manager compensation is only 5% (Vučković 2012). Observed by position, the characteristics of the CEO compensation models in the Republic of Serbia is that the general managers are not in the first position by the percentage of variable components participation in the total compensation. Key account managers receive the highest percentage of variable components (25%), followed by general managers (8%), and other leading managers (7%) (Vučković 2012).

A comparison of CEO compensation between the EU and the Republic of Serbia

Characteristic of the observed national economies of EU countries is the introduction of control measures for CEO compensations, due to their high amounts, large incentive payments, and in order to reduce the disproportionate relationship in CEO compensations. United Kingdom limited amounts of CEO compensations, while a better control of compensation and regulation of the financial market was introduced in Germany. The French Republic has introduced stricter executive salary and incentive control, and is characterized by a reduction in CEO compensation for 17.6%. In the Republic of Serbia, no measures were taken regarding CEO compensation control, nor was their reduction implemented, which was expected considering the structure and height of executive compensations. Looking at the salaries' increase in the observed national economies, the largest increase was recorded in the United Kingdom, where 79% of managers received a salary higher than the planned amount in 2011. In Germany, this percentage was slightly lower and amounted to 71%. United Kingdom is characterized by high levels of CEO compensation and a high salary growth during 2011 and 2012. In Germany, in 2011 and 2012, the executive salaries increased by 4.2%. The annual amounts of CEO compensations in the UK are extremely high, while in Germany they are moderately high. The survey showed that the executive salaries in Germany were higher than the executive salaries in French business organizations. French managers, compared to managers in the Republic of Serbia, have much higher salaries, partly because of the fact that Serbian managers are engaged in much smaller business organizations unlike those of the French. Data on changes in the level of CEO compensations in the Republic of Serbia are not available, they have not been the subject of research so far.

Observing the business organizations with over 100,000 employees, the research has shown that the CEO salaries in the UK are higher than in Germany. However, the total material CEO compensation was higher in German business organizations than in the UK. German managers made greater compensations in total thanks to a significant share of cash incentives, which was even 106% of German salaries, while in the United Kingdom, the manager could receive 73% of salary in cash incentives. Also, long-term incentives in stock options were paid in a significantly higher amount to managers in Germany (95,000 EUR), compared to managers in the United Kingdom (31,200 EUR). The same trend was recorded in business organizations with 20-50,000 employees. The incentives participation in total CEO compensation in the Republic of Serbia is negligible. Also, while in the EU countries there is a noticeable trend of increasing participation of long-term incentives in total CEO compensation, this component is not present in the CEO compensation strategy in the Republic of Serbia.

The average CEO compensation in 2013 was the highest in the UK, and the smallest in the Republic of Serbia. If we compare the executive salaries and other employees salaries, one can say that the biggest difference is noticeable in the UK. Research has shown that managers of business organization in the UK have an average annual salary of 4,946 million GBP, compared to the average salary of other employees, which is 27,195 GBP annual. Due to such large differences, it was necessary to introduce a number of restrictive and control measures of CEO compensations.

During 2014 and 2015, many European business organizations introduced salary harmonization programs with a collective agreement, improved job evaluation, and a reduction in CEO compensations. The best-paid EU managers are Swiss managers, while in second-place are UK managers (Pedersen & Partners, 2013). Executive salaries in developed economies are significantly higher than in the Republic of Serbia. Globally, when we compare the CEO compensations between the United States and Europe, it can be concluded that US managers receive several times higher amounts.

Investigating CEO compensation in Europe, it is concluded that salaries and total compensation largely depend on the business organization size, as well as on the capital structure, ownership structure, possibility for business organization growth, GDP level, managers' age, and many other factors. Large business organizations, operating on the global market and gaining a competitive advantage, earn higher profits than other business organizations. Also, national economies that are important exporters, whose business organizations operate on the global market, gain additional financial capacity and additional financial gain, resulting in increased CEO compensations. It can therefore be concluded that managers in the UK, Germany and the French Republic are rewarded with higher compensations than managers in the Republic of Serbia, which is evident from the conducted comparative research.

Conclusion

In recent years the subject of public interest has been oversized CEO compensation and its disproportion compared to other employees' salaries. Managers are the most important asset of each business organization and it is necessary to achieve their high motivation for accomplishing the business goals. This can be achieved if CEO compensations are closely related to the target performances of a business organization. Business organizations that want to achieve a defined strategy and a competitive advantage in the global market must engage managers of appropriate skills, and enable them to continuously progress and develop their career. By modeling CEO compensations, a business organization clearly perceives the results of a managers' motivation, and gets the answer to a question - whether the compensation is critical for the results of top managers.

Strategic goals and business activities should be harmonized, and a business organization should include all the necessary incentives and benefits to attract and retain top-level managers. The CEO compensation package offered by the business organization must be adequately planned and created according to the managers' needs, thereby achieving a better productivity of their work. Managers also need to be provided with the adequate compensation model, which will improve their performances in achieving the set goals. This paper analyzes applied models of CEO compensation, and their levels, in the Republic of Serbia and EU member countries. The survey covered EU countries, especially United Kingdom, Germany, the French Republic, and the Republic of Serbia. The selected EU countries have the highest amount of overall CEO compensation, and also the highest ratio between executive compensations and compensation of other employees. Research has shown the large ranges of CEO salaries in those countries. The global economic crisis has greatly influenced the level of CEO compensations across Europe, which has led to government adjustments of the observed countries and to the limitation of CEO compensations. The research has confirmed that there are large and disproportionate differences in the level of CEO compensations, conditioned by the degree of economic development of the observed national economies, as well as many other factors that directly or indirectly affect the level of CEO compensation (size of business organization, managers' age, capital structure, ownership structure, etc.). Also, the research has confirmed that some of the CEO compensation components, present in developed EU economies, have negligible participation in the Republic of Serbia. These are short-term and long-term incentives. While short-term incentives (although negligible) are still present in CEO compensation models in the Republic of Serbia, long-term incentives are not part of the executive reward strategy in Serbia, in contrast to the trend present in developed EU economies. Comparison of CEO compensation in the Republic of Serbia and EU countries enabled the positioning of the Republic of Serbia in the context of EU integration; and enabled Serbian business organizations to track trends that are current, and structure

their CEO compensations to meet managers' expectations in terms of attractiveness, and equity owners in terms of cost efficiency. CEO compensations are still underdeveloped area in the Republic of Serbia, so that Serbian business organizations that operate, or plan to operate, on the international market, should apply CEO compensation models and practices, present in EU countries. Identified existing differences in strategy and policy of CEO compensation in EU countries and the Republic of Serbia should improve CEO compensation practice in the Republic of Serbia, to the one that is present in the more advanced EU countries, in the context of EU integration.

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Emerging the U.S. Firm Size Distribution Using 4.2 Billion Individual Tax Records

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ABSTRACT: The firm size distribution describes important economic and labor properties of any economy. Government entities must expend enormous resources in data collection, cleaning, and analysis in order to construct this and other important distributions describing the aggregate properties large economies. In the U.S., this process can be cumbersome and relies on querying multiple databases and utilizing significant computational resources. I show that construction of the U.S. firm size distribution is plausible using only individual income tax records (W2s) drawn directly from Internal Revenue Service tax records (micro data) and that the emergent distribution is statistically identical to what is reported by the United States Census Bureau. The methodology represents an incremental advance for population-scale studies in economic analysis—specifically firm and labor analysis. Finally, this paper acts as a re-validation of earlier work in fitting the firm size distribution.

KEYWORDS: firm size, labor, taxation, data policy, economic analysis, data science

Background

Firm sizes (as measured by number of employees) is an important firm feature closely related to the health, growth, and success of modern economies. Sizes of U.S. firms have been well-studied and are generally considered critical to understanding the state of labor dynamics and aggregate economic properties.

One of the first works aimed at understanding properties of firm sizes argued that firm size at time t follows a random growth (Gaussian) process that is independent of size at time $t-1$ (Gibrat, 1931) and produces firm size distributions that are power law or log-normally distributed. Formally, this rule is known as the Law of Proportional Effect or Gibrat’s Law (shown in equation 1 as defined by Sutton (1997)). In historically active lines of inquiry aimed at understanding firm sizes, reliance on sample-based studies of firm properties dominated the literature (Evans, 1987a,b; Hall, 1986). Access to more powerful computational resources coupled with a more robust process of engagement between U.S. federal entities and The Academy has provided for more opportunities in population-scale analysis focused on labor and firm data.

$$x_t - x_{t-1} = \epsilon x_{t-1}, \text{ where } \epsilon \text{ denotes growth rate between } t \text{ and } t-1. \quad (1)$$

For much of the period prior to the year 2000 and with reliance on sampling techniques, the firm size distribution was often thought to be log-normal (Equation 2) exhibiting a random multiplicative process. And, while off-the-shelf economic analysis and simulations based on Gibrat’s Law (proportional growth) produce log-normal distributions under most variations, empirical analysis of the firm size distribution produced results favoring scaling behavior (power law distributions) (Stanley et al. 1996). Through reliance on sampling methodology Sutton (2002) examined the variance of firm growth rates through a re-analysis of Stanley et al. (1996) and found firm sizes to be power law, while others curbed their claim of skewness only to the log-normal distribution (Cabral and Mata 2003). Ultimately, the empirical U.S. firm size distribution was shown to follow a stationary power law (specifically Zipf) (Axtell 2001) when more complete population-scale data was treated analytically, relegating Gibrat’s model to hypothetical uses.

$$f(x) = \frac{e^{-((\ln x)^2/2\sigma^2)}}{x\sigma\sqrt{2\pi}} \quad x > 0; \sigma > \quad (2)$$

Power law distributions are a unique class of statistical distributions with rare properties. They are considered to be scale invariant, lack a well-defined mean under most parameter values, and exhibit undefined higher moments (Clauset et al. 2009) requiring a unique class of fitting techniques and methods of analysis (Virkar and Clauset 2014). Power law distributions are often synonymous with complex adaptive systems in that they signal the existence of some underlying process that governs the system as a whole, though dozens of explanations have been provided as to what those underlying processes may actually be (Reed 2001). This interesting class of statistical distributions have been found to describe the number of casualties in wars (Richardson 1948), the size of U.S. cities (Zipf 1949), and the degree distribution of complex networks (Barabasi and Albert 1999) as well as many other social, economic and natural phenomena. The standard functional form of a power law distribution is shown in Equation 3.

$$f(x) \propto x^{-\alpha} \quad (3)$$

Since efforts herein focus on methodological issues of constructing large economic datasets (and specifically firm sizes) in more efficient ways and so as not to stray from that objective, I report a comparison of fit between a log-normal and power law for the year 1998 in 1 as a re-confirmation of the validity of a power law model put forth by Axtell (2001). The year 1998 was chosen since it is the closest year in our dataset that corresponds with his seminal analysis of the year 1997. Reporting this result here is advantageous as we will report a comparison of this model's parameters for Census Bureau and Internal Revenue Service datasets of the more appropriate power law model and omit a comparison of the log-normal fit.

Table 1. U.S. Firm Size Models

	$ax^{-\alpha}$ vs. $\frac{1}{(x\sigma\sqrt{2\pi})}e^{-\frac{(\ln x - \mu)^2}{2\sigma^2}}$	
	power-law	log-normal
p	0.7	0.66
gof	0.341	0.425
α	1.11	
x_{min}	4	
μ		10.28
σ		4.91

Source: Calculated from IRS micro-data

Table 1: Firm size model comparison between log-normal and power law as implemented by Clauset et al. (2009) for the year 1998. Note: $p > 0$ signifies rejection of the null hypothesis. $p \approx 0$ disallows rejection. Higher p values provide for increased confidence in the model.

As shown in Table 1, while both the log-normal and power law can fit the data relatively well, with the log-normal model providing a closer fit, our confidence in the power law model is stronger. Axtell (2001) calculates the exponent parameter to be 1.059 while our re-analysis provides a value for the exponent of 1.11. Consequently, since we were able to, 1- establish that our data aggregation method can reproduce earlier results and, 2- that there exists sufficient evidence to use a power law model in order to conduct a comparison between reported public datasets and micro datasets, we will proceed onto describing our simple methodology.

Methodology

Internal Revenue Service Micro-data

In the previous section we provided, as background, a comparison of model fits based on the aggregation of roughly 4.2 Billion (over 16 years) Internal Revenue Service (IRS) records. Figure 1 displays the aggregate size distribution for all firms from 1998-2016 scaled logarithmically with exponential (log) binning assignments. This distribution and binning were the basis of said model.

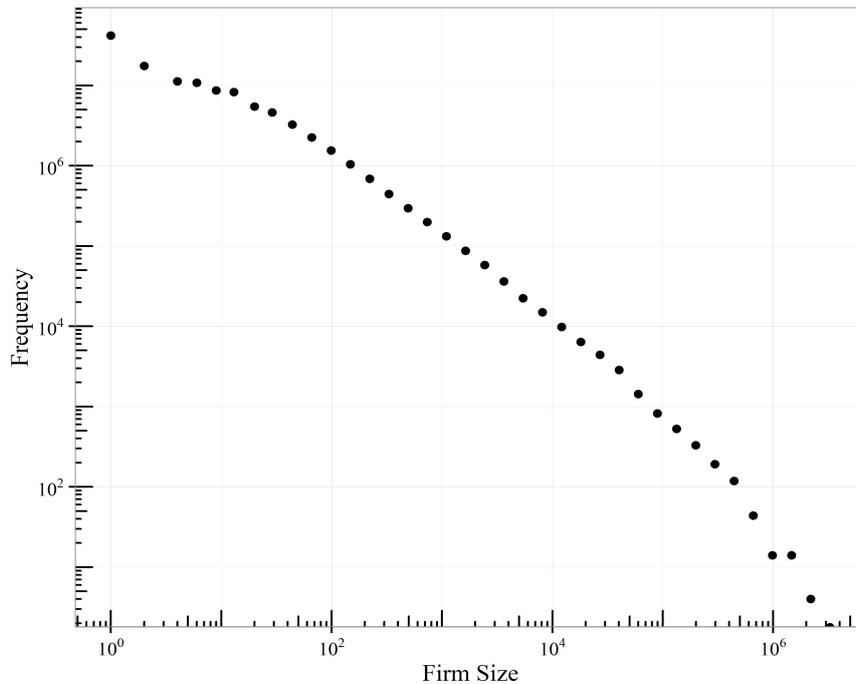


Figure 1. Aggregate Firm Size Distribution

Figure 1: Firm size distribution for all firms with at least one (1) employee in range 1998-2016. Frequency (y-axis) and size are plotted using a log-log scale with the data-set binned exponentially.

As implied by the figure—certainly for large portions of the distribution, if not the entire range—the firm size distribution follows a power law. However, the major difference between power law and log-normal fits are usually apparent in the tails, not in the main component of the distribution, hence requiring a formal statistical test (Table 1). Clauset et al. (2009)’s well-accepted method for fitting power law distributions was utilized.

Through a joint research partnership with the IRS, the distribution of firm sizes was constructed using a unique identifier for each firm as reported by both employers and employees on W-2 tax records. This construction was carried out using primary source electronic databases and records at IRS facilities under IRS subject matter experts’ direct supervision and while maintaining anonymity of all tax records to ensure maximum privacy for U.S. taxpayers and to secure our high ethical standards.

W-2 tax records are documents that are (usually) transmitted electronically to the U.S. IRS by employers once every calendar year and are included on individual tax returns by employees once every calendar year (IRS form 1040). Thus, they form a highly reliable employer-employee matched population-scale collection of records. W-2 records include unique identifiers for employers—the Employer Identification Number (EIN) and for the employee—the Social Security Number (SSN), providing a natural defense against duplication and mismatching. They also include additional information such as yearly wages, income taxes paid, and deduction information.

Using these natural constraints to our advantage, we issued database queries that removed duplicate records, re-filed records, and amended records, and issued a count conditional on firms' EINs. This was implemented on the aggregate (all years combined) and temporally for the years 1998-2014. Exclusion of more recent years (2015-2019) was to ensure that late tax filings would not play a role in our analytical construction. By using this platform to construct firm sizes we ensure maximum accuracy, precision and can immediately eliminate anomalies from our data cleansing processes.

Construction of the firm size distribution from individual tax records is an example of bottom-up analysis—a notion commonly accepted by scholars of complexity science and the agent-based modeling community (Axtell 2000), but likely feels unintuitive to traditionalists that span economics, statistics and the new area of data science. Perhaps this is why a comparison of this method with top-down approaches that rely on construction through an amalgamation of firm tax records, to my knowledge, has never been attempted. Let us review one such method used by the U.S. Census Bureau.

Census Bureau Methodology

The United States Census Bureau (U.S. Census) is the government agency responsible for collecting national data of interest to the U.S. as well as for the analysis of such data. Much of what is gathered by U.S. Census is shared publicly, which includes economic information such as the firm size distribution. Occasionally and as needed, U.S. Census may or may not rely on datasets from other agencies, though little is disclosed as to where primary source data originates—only that the data is gathered into a “product”—which references a data warehouse— and that these datasets are then made available to the public in part or in whole.

Specifically, aggregate data on firm properties in the U.S. economy, such as age, wage, size and labor of firms (Shaheen, 2019) are reported within the Business Dynamics Statistics product (BDS) (United States Census Bureau, 2019). U.S. Census reports that this product was constructed by the Center for Economic Studies compiled from the Longitudinal Business Database using “annual snapshots” from the Census Bureau’s Business Register using “probabilistic name and address matching” at the establishment level (many establishments can be part of a single firm). It is clear that this dataset has been used as the foundations by which many studies and analysis have been conducted—that it is important.

Once firm-level data is gathered by U.S. Census, firms are divided into sector classifications, including Mining, Construction, Retail Trade and other categories based on the Standard Industrial Classification (SIC). Additionally, U.S. Census carries out the exclusion of certain types of employees, such as the self-employed, domestic service workers, railroad workers, and the majority of government employees. A full accounting of industry classifications and excluded employees can be learned from this body’s most previous citation.

In order to build such a cumbersome collection of linkages between tables and databases many resources must be expended—computational, human, and financial. There are undoubtedly good reasons to do so: One such reason would be the construction of the firm at the establishment level. An establishment is simply a physical location for a firm in part or in whole. Firms can be comprised of many establishments or a single establishment. In popular terms, establishments can be equated with branches of a bank, offices of a start-up, or even stations of a transit service—a less obvious case. Indeed, the single most reliable record of employment—the W-2—does not report establishment unique identifiers (to my knowledge no such identifier currently exists), but only location information. Consequently, U.S. Census must first identify firms and then use location information to identify establishments, since identifying firms first is key to identifying their establishments—an expensive top-down approach, from firm to worker rather than from worker to firm.

Comparing IRS to Census Data

As we are authorized to report binned IRS data only and possessed no access to primary source U.S. Census datasets our comparisons are conducted on binned data. Our original binned dataset conforms to

exponential bins (bins of exponentially increasing size). Exponential bins are often used when the hypothesized distribution of a given dataset is power law so as to ensure that enough data points exist in each bin and to take advantage of the smoothness of the resulting curve. A growing body of literature on proper power law analysis exists (Virkar and Clauset 2014).

Publicly reported U.S. Census datasets use much lower resolution bins than the exponential bins used to aggregate IRS micro data, especially in the lower firm size bound. As a comparison of our collected dataset and the dataset reported publicly by U.S. Census, the aggregate IRS-based firm size data is shown in Table 2 using exponential bins, and to follow, the corresponding Census dataset over the same time-period is shown in Table 3. We will avoid listing firm size data for all years due to length requirement.

Table 2. Firm Size Frequency Distribution

Lower Bound	Upper Bound	Frequency	LB (cont)	UB (cont)	Freq. (cont)
0	1	41865506	1480	2321	67112
1	2	17504300	2321	3640	39694
2	4	11232023	3640	5710	23351
4	6	13450753	5710	8955	14733
6	10	10286684	8955	14044	9300
10	16	7452135	14044	22026	5703
16	25	5706500	22026	34544	3782
25	40	3863039	34544	54176	1839
40	63	2572038	54176	84965	966
63	99	1706751	84965	133252	569
99	156	1079534	133252	208981	334
156	244	677493	208981	327747	201
244	383	419631	327747	514011	97
383	601	266169	514011	806129	16
601	943	170437	806129	1264263	16
943	1480	106274	1264263	1982759	10

Source: Internal Revenue Service

Table 2: Shown is the firm size distribution of U.S. firms aggregated between 1998-2015 using micro-data collected over 4.2 Billion IRS W-2 records. Firm sizes are binned logarithmically. The data is compiled from a primary source database of all IRS W2s. Upper bins are inclusive.

Since reported Census bins are arbitrary, while our reported tables use exponential binning designed to maximize power law model-building statistical power, in order to issue a one-to-one comparison we could either re-bin IRS data to conform to Census frequency breakpoints and choose some arbitrary bin reduction method (e.g. IRS dataset bin 40-63 crosses the 20-49 and 50-99 census bins and so we could proportionally assign the frequency of this bin to both Census bins) or we could bin the original dataset into census breakpoints ensuring a direct comparison while giving up statistical validity in power law model building. In the background section, we reported a comparison between power law and log-normal models using exponential bins observed from IRS micro-data, but for the remainder of this analysis and to ensure a direct comparison we re-binned original IRS data into Census bin breakpoints even when constructing a comparison of the power law model parameters for the years 1998-2015. Doing so will reduce our confidence in the power law model since the binning method is not ideal.

Table 3. Firm Size Frequency Distribution

Lower Bound	Upper Bound	Frequency
1	4	46730304
5	9	17692470
10	19	10419317
20	49	6445387
50	99	2020866
100	249	1094316
250	499	318863
500	999	151029
1000	2499	95040
2500	4999	36569
5000	9999	21027
10000	2500000	22576

Source: U.S. Bureau of the Census

Table 3: Shown is the firm size distribution of U.S. firms aggregated between 1998-2015 using U.S. Census publicly reported data. Firm sizes are binned in ranges chosen by U.S. Census. The data is compiled from public sets available on census.gov. All bins are inclusive. Upper bin (2.5M) assumed.

In order to compare our (IRS) construction to U.S. Census data we used three (3) methods: Firstly, a visual inspection of the frequency distributions (exploratory); secondly, a comparison of the parameter value of a power law fit (parametric); and thirdly, utilizing the non-parametric Kolmogorov-Smirnoff (K-S test) for all years in our dataset. I report the results, henceforth.

Results

A visual inspection of Figure 2 reveals the identical visual nature of the firm size distribution constructed from IRS data (blue cross) when compared to the firm size distribution reported by U.S. Census (red circle) in the time-period 1998-2014 using census bin break-points.

Moreover, the distributions are indistinguishable under a two-sample Kolmogorov-Smirnoff (Smirnov) test providing a distance (D) value of 0.167, corresponding to a p-value of 0.996 for every year, suggesting that the two methods—at least where firm sizes are concerned—not only correspond statistically, but that U.S. Census aggregation of firm sizes post-construction of firm and establishment identifiers is likely partially based on W2 records. In statistical terms, we fail to reject the null hypothesis (the distributions are identical). There are limitations to this test: first, the K-S test is more suited for continuous data, and second, it is more suited for a larger number of observations (Koziol, 1980) than our specific implementation. However, this test still represents an agreeable piece of evidence towards determining the efficacy of the proposed construction method.

Provided in Table 4 is a direct comparison between IRS and U.S. Census data constructions based on a power law model. Estimates of the α parameter for both models appear to be relatively close. Variations of the goodness-of-fit and p-value (p-value $\gg 0$ supports the validity of the power law model (Clauset et al. 2009)) are expected since data construction of IRS data contained far more resolution. The resulting similarity between the estimated parameters supports the hypothesis that there is no statistically distinguishable difference in the data construction method.

Moreover, using a paired t-test for difference I compare the parameter values of each year in both model constructions. Table 5 lists both standardized t-scores and p-values. In all but one case (the year 2000) we can be highly confident that there is no real significant difference between the power law model's parameter—confirming our larger hypothesis.

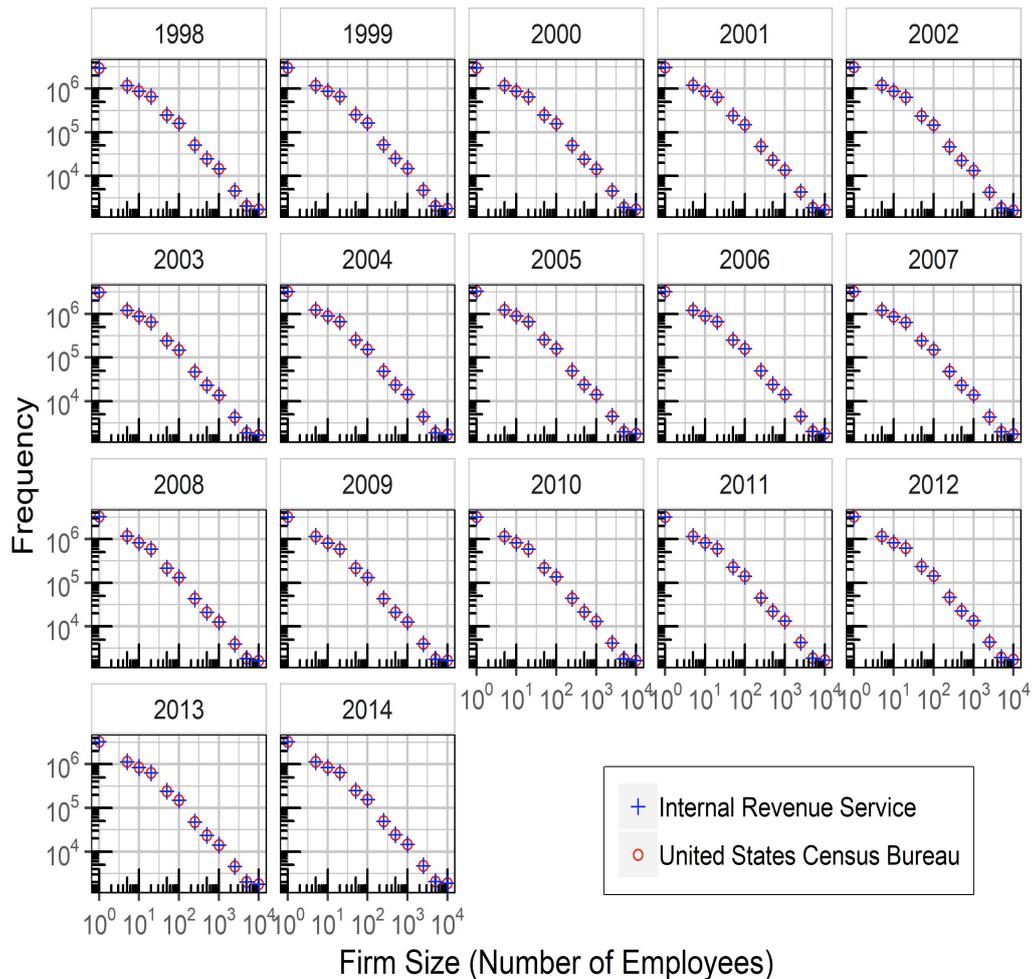


Figure 2. Calculated Temporal Firm Size Distribution Using Census Bins

Figure 2: Yearly firm size distributions for all firms with at least one (1) employee in range 1998-2014 including comparison between U.S. reported data and collected IRS data. Frequency (y-axis) and size are plotted using a log-log scale with the data-set binned exponentially.

Conclusions

Methodology-as-science is often frowned upon in The Academy, but in an age where computational resources often determine the availability of certain types of analysis or when those resources can even constrain the types of questions pursued by scholars, it is inevitable that one must embark on methodological questions. In this work, we embarked on precisely that noble pursuit.

The construction and consequent emergence of the U.S. firm size distribution—an important economic property—through the use of a bottom-up approach instead of a top-down analysis was a computationally efficient method resulting in an almost identical result to what is reported by the internal analytical groups of the U.S. Census Bureau. Statistically, there was little difference—as we have shown through exploratory, parametric and non-parametric validation methods. In the process of developing this construction method, new questions about the age, wage, size, labor, and generally—life and death of firms—are more feasible for independent scholars seeking access to micro-data. And, while we used this opportunity to re-confirm historical marquis results, perhaps the most important incremental advance here is the incorporation of bottom-up, agentized analysis in the data scientist's toolkit. In future works, I will report further analysis as a direct consequence of this data construction method.

Table 4. Power Law Model Comparisons

Dataset	IRS			Census		
Year	parameter	gof	p-value	parameter	gof	p-value
1998	1.2661	0.4046	0.57	1.2889	0.3214	0.7
1999	1.2685	0.4049	0.58	1.2913	0.3225	0.71
2000	1.2681	0.4053	0.57	1.2942	0.321	0.71
2001	1.2679	0.4082	0.56	1.2896	0.3208	0.71
2002	1.2666	0.4098	0.55	1.2907	0.321	0.71
2003	1.2673	0.4096	0.55	1.2849	0.3203	0.71
2004	1.2678	0.409	0.57	1.2866	0.3187	0.72
2005	1.269	0.4089	0.58	1.2848	0.3185	0.72
2006	1.2702	0.4091	0.58	1.2844	0.3186	0.72
2007	1.2697	0.4101	0.56	1.2874	0.3202	0.72
2008	1.2698	0.4134	0.52	1.2891	0.3205	0.72
2009	1.2711	0.4128	0.53	1.2823	0.3233	0.72
2010	1.2707	0.4119	0.54	1.2857	0.3194	0.72
2011	1.2703	0.4117	0.55	1.284	0.3206	0.71
2012	1.2704	0.4109	0.55	1.2841	0.3222	0.71
2013	1.2714	0.4106	0.56	1.2838	0.3231	0.71
2014	1.273	0.4103	0.56	1.289	0.3222	0.71

Table 4: Shown are power law fits for both IRS and Census datasets. Parameter values (α), goodness-of-fit, and the corresponding p-values are listed for each year in our dataset. Parameter values range from 1.26 to 1.29, in line with expectations. The power law model is a strong model for both datasets. Disparities in the goodness-of-fit and p-values are likely due to the higher resolution of IRS dataset. *Note: $p > 0$ signifies rejection of the null hypothesis. $p \approx 0$ disallows rejection. Higher p values provide for increased confidence in the model.*

Table 5. Parameter Value Comparisons

Year	t-score	p-value
1998	-1.121	0.279
1999	-1.111	0.283
2000	-1.881	0.078
2001	-0.874	0.395
2002	-1.422	0.174
2003	0.048	0.962
2004	-0.233	0.819
2005	0.463	0.65
2006	0.813	0.428
2007	0.019	0.985
2008	-0.351	0.73
2009	1.504	0.152
2010	0.628	0.539
2011	0.942	0.36
2012	0.937	0.362
2013	1.246	0.231
2014	0.393	0.7

Table 5: Paired t-test for no difference results for all model parameter values. IRS models was compared to Census models. In almost every comparison there is no valid statistically significant different between IRS data models and Census data models. No single observation exceeds two (2) standard deviations in difference. *Note: $p > 0$ signifies failure to reject the null hypothesis (i.e. there is no difference between the values). $p < 0$ disallows rejection and forces us to conclude that there is a difference.*

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Factors Contributing to Marital Dissatisfaction and Divorce in the Military

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ABSTRACT: Military members are no different than civilians in terms of the desires to have a life partner and have a satisfied marital life after marriage. However, the challenges faced by many military members and their families are different than those facing the civilian families by the sheer nature of their service. This study conducts an in-depth academic literature analysis regarding the impacts of the unique trials and tribulations that face military personnel on their marital dissatisfaction or dissolution. While an empirical hypothetical model to test whether factors such as length of deployment, number of deployments, post-traumatic stress disorder impact the military marital dissatisfaction is provided in this paper, there is no quantitative analysis conducted due to lack of access to relevant data.

KEYWORDS: Military, deployments, Post-Traumatic Stress Disorder (PTSD), divorce

Introduction

One of the often-overlooked aspects of military service is the impact it can potentially have on the personal relationships of an individual who is serving. This research paper presents a detailed literature review and analysis of the factors that contribute to military marital satisfaction, with particular focus on the propensity for divorces within military households. It is important to note that the term military marriage refers to any civil union between two people, at least one of whom is or has been an actively employed member of the military in the United States. We propose an empirical model that can be tested using data from the military databases compiled from sources such as Defense Manpower Data Collection Agency (DMDC) or other Federal data. Due to confidentiality reasons and the need for extensive IRB approvals to use this data, we are not performing any quantitative tests of the model. Instead, we are supplying a theoretical construct based upon factors affecting military health and marriage, such as length of deployment, number of deployments, and post-traumatic stress disorders among others that have been identified within the literature as being significant. The goal is to find and list the factors impacting personal relationships that will provide an outline for the Department of Defense (DOD) to increase the relevant support services to military personnel to improve their long run personal outcomes.

The DMDC in addition to other federal agencies such as the Veterans Affairs Office of Research and Development (ORD) collects a large amount of data on military personnel and their households. However, public or even requested access to this data is limited. While Federal workers or veterans do have access to some of that data, they are unable to share or delve into the carefully managed outcomes from these data for confidentiality reasons. This lack of access to data and confidentiality surrounding the military population and their information results in questions that continue to remain unanswered with respect to this unique population. Do military members have increased occurrences of failed marriages in comparison to their civilian counterparts, and if so, why? What causes divorce in military households? Are adequate support services available and are they being used appropriately? This paper attempts to identify some of the answers to these questions by reviewing the existing literature and then presenting a model that could be empirically tested, if data were to be made available.

Literature Review

Speculation about relationship challenges for the military labor force has been a subject of research interest gaining attention in recent times. Research surrounding various implications on the personal life of military personnel includes the effects of deployments (e.g. Balderrama-Durbin et al. 2017), mental

health (e.g. Routon 2017), gender of the service member (e.g. Wang et al. 2015), and comparisons with civilian counterparts (e.g. London, Allen, & Wilmoth 2013). Limited research exists prior to the military transition from required-service (“the draft”) to an all-volunteer force in 1973. Additionally, studies relating to divorce rates among veterans and their root causes are scarce. This hypotheses essay will lay the groundwork for discovering the significant factors that influence marital satisfaction among military personnel, thereby setting the stage for recommended adjustments to current support services as well as suggesting the creation of new ones.

The military lifestyle is unique in its distinct demands. Service members are subjected to lengthy absences from home, constant relocations, rigid work expectations, and schedule inflexibility (Burrell, Adams, Durand & Castro 2006; Drummet, Coleman & Cable 2003). Deployments can put a strain on personal relationships because they can result in either Post-Traumatic Stress Disorder (PTSD) or physical injuries or both. Theories to explain why military marriages fail abound but the data that researchers can gather remains limited and therefore renders the transition from theory to measurement a challenging task (Karney & Crown 2011; Negrusa, Negrusa & Hosek 2014). The lack of homogeneity in support services that are offered to various military branches prevents existing research from being generalizable.

The studies that do incorporate all U.S. military branches, namely Navy, Marine Corps, Army, Air Force, and Coast Guard, while benefitting from inclusivity, lack a longitudinal perspective. An exception to this general observation is the Karney, Loughran & Pollard (2012) study that examines 10 years of military records varying by branch and provides one of the most in-depth views into military marital trends. This section is divided into the key sub-sections based upon the type of existing literature that examines specific factors of military marital satisfaction, or the lack thereof.

A. Military vs. Civilian Divorce Rates

It is reasonable to assume that military marriages are more susceptible to end in divorce than civilian unions because the fundamental dynamics of work are different between military and civilian labor force. As mentioned earlier, military marriages are often subjected to lengthy periods of separation, lack of immediate access to each other’s location, frequent transfers, and a distinct set of work priorities and emergent situations. Two hypotheses appear that offer an explanation for failed military marriages from the literature, (1) the stress hypothesis and (2) the selection hypothesis. According to the stress hypothesis, extreme demands are made on service members resulting in divorce, while the selection hypothesis claims that the population recruited for military service are predisposed or “high risk” candidates for divorce to begin with (Hogan & Seifert, 2010).

The question of whether divorce occurs more frequently in the military or civilian population was explored in a study by Karney & Crown (2007) who conducted a cross sectional study spanning a 10-year period, utilizing DMDC data from 2007. Findings reveal a lack of support for the stress hypothesis for all military branches except for Air Force members who had been deployed for long periods. The reverse held true for other branches, indicating the more days members were deployed the less likely they were to become divorced. This could be a result of a different caliber of support services amongst the other branches but there is no substantiation provided for this question. While stress may cause the emergence of traits not otherwise shown by people, which could relate to the feasibility of the stress hypothesis, data for that conclusion is inadequate and requires further study. Karney & Crown (2007) concludes that while the stress hypothesis can explain some of the impacts of military service on marriage, it is not consistently proven to be significant across various studies.

Military members tend to marry younger and earlier than their civilian counterparts and this could be a result of the enticing compensations and benefits provided to married military members, without which those marriages might not have occurred in the first place (Karney & Crown 2007). According to Military Advantage (2019), married service members are paid an increased rate of Basic Housing Allowance (BAH), are eligible for Basic Allowance for Subsistence (BAS) and can live off-base. Marriage also allows the military member to continue a relationship with a civilian

regardless of where the member is stationed. Moreover spouses, whether military or civilian, can go with the service member to the various duty stations over the course of their military career.

A follow up study compares divorces in the military and the civilian populations across two time periods, pre-conflict, from 1998 to 2001 and post-onset of hostilities from 2002 to 2005. The results show that there are no significant differences between military and civilian divorce rates, even though the general trend of divorces in the military is increasing between the two time periods studied (Karney et al. 2012). The study confirms the earlier conclusions that military males tend to marry earlier as compared to civilian males. However, identifying if military members marry sooner than civilians and if divorce is a less preferred outcome as a *result* of differentiated benefits available to the two groups, or whether differentiated benefits are available *because* of earlier marriage and discouraging divorce within military, makes it challenging to obtain clear conclusions (Hogan & Seifert 2010; Karney et al. 2012).

It is tempting to presume that once the military member returns to the civilian sector, the stressors specific to service are removed and therefore improves the marital relationship. However, this is not the case because the effects from the time previously served may create unique-to-military difficulties such as long-term service-related physical and mental health problems, disruptions in educational attainment, and traditional career options as compared to civilians (London, Allen, & Wilmoth 2013).

Routon (2017) is a longitudinal study that examines military and civilian individuals within the same age cohorts to test for the selection hypothesis and concludes that there is in fact a relationship between military service and divorce (p. 353). The study finds that dissolution of marriage typically occurs within a two-year time span following separation from the military and the return of the member to the civilian sector (p. 353). Routon (2017) suggests that while the selection hypothesis appears to be valid *prima facie*, further studies on marriage, marital stability, and the choice to volunteer in the armed forces would be necessary to confirm its significance and measure the impact of self-selection on military marital outcomes as compared to civilian marital outcomes.

B. Deployment

With the departure from a military-in-peace-time, following September 11, 2001, deployments to support the War on Terror began. While deployment does not always involve exposure to combat, it is often a stressful period of separation from family (Karney & Crown 2007). Interestingly, divorce rates within deployed members between 2002 to 2005 were lower than those for non-deploying military personnel during that same time period (Karney et al. 2012). It is possible that the expectations for those married prior to the Iraq/Afghanistan conflicts may have been starkly different from the experienced reality as members deployed to those locations. The threat of deployment and constant readiness service members are expected to exhibit, can be a constant source of stress within the relationship. Problems posed by long periods of separation may include infidelity, reintegration challenges, and communication or intimacy issues (Karney et al. 2012). Members involved in combat situations may return with either mental or physical health effects or both. These might also have different implications by gender of the military member. For instance, female service members cited deployment as the primary contributing factor to dissolution in their marriages (Rossiter & Chandler 2013; Negrusa, Negrusa & Hosek 2014).

Prior research examining Army reservists found that intimacy and closeness can be difficult to maintain while apart, even though technology has allowed for significant improvement for modern military couples as compared to their counterparts who were serving during the Vietnam Era (Karakurt et al. 2013). Increased communication with family and spouse results in less distraction for the service member and couples that are already in marital turmoil often limit communication, which compounds the compromising of a deployed member's focus and safety (Carter et al. 2015). Another risk to a couple that is physically separated as a result of deployment is often noted to be infidelity. A qualitative study exploring the impacts of infidelity during a year-long deployment concludes that infidelity often occurs as a result of pre-existing influences among couples that are already dealing with a distressed relationship (Balderrama-Durbin et al. 2017).

Thus, instead of being the cause for marital failure, infidelity was more of a symptom of a failing relationship. And while deployment could create a fertile environment for infidelity, it is most likely not the cause of the infidelity to begin with.

A longitudinal study exploring the impact of deployment on marriage using military data for the years 1999 to 2008 also concludes that those married prior to September 11, 2001 exhibited increased “marital shock” as compared to those that were married after the War on Terror was launched (Negrusa, Negrusa & Hosek 2014). Contrary to previous findings suggesting that deployment only marginally affects divorce rates in the military (Karney et al. 2012), the importance of cumulative time deployed and its impact on increasing the risks of divorce is underlined by Negrusa et al. (2014) regardless of whether the deployment was hazardous duty or not.

In a unique take on military marriage studies, an earlier study by Pincus et al. (2001) divided the deployment process into five stages that culminate into an emotional cycle: pre-deployment, deployment, sustainment, re-deployment, and post-deployment. Each stage had its own unique period of time and challenges, with post-deployment and the return of the service member considered as the most important stage. A later study by Sheppard, Malatras, Weil, & Israel (2010) elaborates on these stages and concludes that marital separation and eventual divorce can be associated with deployment based upon the trials a military member and spouse have to endure during deployment. This is also indicative of the understanding that an intrinsically strong marriage can survive these tribulations, albeit a civilian marriage would not necessarily have to deal with these trials in the first place, making it all the more difficult to separate the causes of divorce and the effects of deployment a military relationship.

C. Mental Health

The subject of mental health has received increased attention in recent years, as the frequency of traumatic brain injuries has increased and an understanding of health issues such as the long-term impacts of Post-Traumatic Stress Disorder (PTSD) has improved. Almost one in five members who served in Operation Iraqi Freedom (OIF) or Enduring Freedom (OEF) is dealing with PTSD in one form or another every year (U.S. Department of Veterans Affairs, 2019). The stigma associated to reporting mental health conditions such as PTSD could mean that these numbers are underestimating the reality, because the resulting repercussions on career outcomes might prevent military members from seeking help and a proper diagnosis in a timely manner. While injuries in any sense can cause challenges within a relationship, the invisible ailments that affect the mind can be especially challenging. It is not uncommon for spouses of military members to struggle with understanding the symptoms and behaviors of the service members. A study by Kar & O’Leary (2013) seeks to find the link between PTSD and intimate partner violence (IPV) by hypothesizing that service members with “unhealthy attachment styles and poor emotional coping skills (as evidenced through use of IPV)” might be less equipped to handle trauma experiences and are likely to develop PTSD at higher rates than their counterparts in the military. Military service members are screened prior to deployments, though there may be an inquiry currently being omitted which could aide in the detection of those with under-developed coping skills prior to being deployed and thereby eliminating those at high-risk to develop PTSD from being exposed to unusual trauma. Upon return from deployment, those that are suffering from early or fully-onset PTSD might show a type of “emotional numbing”, which can negatively impact relationship intimacy (Kar & O’Leary 2013). The corresponding decline in emotional closeness and the potential for self-harm or IPV, if left untreated, could result in decreasing marital satisfaction and eventual separation or divorce, depending on the severity of the symptoms.

A similar study investigating PTSD and IPV seeks to compare and contrast the characteristics of veterans who exhibit IPV and those that do not, while receiving treatment for PTSD (Gerlock et al. 2016). The variables in this study were PTSD severity, witnessing of inter-parental IPV as a child, substance use/abuse prior to service and post-return from deployment, mutuality, and other demographic characteristics to control for variation within different groups. The results indicate that the only shared trait between the two groups was mutuality and IPV peaked in severity within the first two years following deployment in the group of veterans who exhibited a propensity towards

IPV (Gerlock et al. 2016). Given that mutuality was a significant factor, Gerlock et al. (2016) advocate PTSD treatment options that include the spouse, confirming a previous recommendation made by Miller et al. (2013).

PTSD and other depressive symptoms associated with a bad mental health situation are consistently found to decrease marital satisfaction for both the military member and their spouse (Foran, Wright & Wood 2013; Bergmann, et al. 2014). Marital satisfaction and communication suffer when military personnel engage in PTSD related behavior triggered by exposure to danger and constant threat to life during deployment even after they return to civilian life. They could react either by withdrawing completely or being overly-sensitive or paranoid regarding external factors including focusing exclusively on the negative aspects of their relationships (Foran, Wright & Wood 2013). Pre-existing unhappiness in a marriage can be worsened by the presence of PTSD, materializing in IPV, disengagement, or the attention the individual and illness require which further detracts from the marital focus (Foran et al. 2013, 921).

The significance of trauma and attachment issues was explored by studying conflict discussions between trauma-exposed veterans and their intimate partners by Miller et al. (2013). In this qualitative study, 287 couples were observed in order to determine the manner in which PTSD symptoms influence the nature and quality of their communication. These type of one-on-one observations found that more hostility and distress is exhibited by the spouses of the military members during the discussions, which lends credibility to the notion that PTSD impacts communication between couples, creates dissatisfaction in the relationship, and over time could lead to a deterioration in the quality of the relationship completely, if left untreated (Miller et al. 2013). This echoes what a previous study focusing on how the perceptions of the spouse impact the quality of the relationship in a military marriage (Renshaw et al, 2008). Perceived combat exposure by the spouse and level of understanding influenced marital satisfaction among those struggling with PTSD. If there was minimal combat exposure but the service member reported high levels of PTSD, or if the member had high levels of exposure but demonstrated low levels of PTSD, the spouse was dissatisfied because non-military spouses associate the exposure to combat with expected level of PTSD, which might be a perceptual fallacy, at best (Renshaw et al. 2008).

D. Gender Implications

In 2016, the U.S. military consisted of 204,628 female service members or 15.9% of the total force which represents a significant growth in number of female service members as compared to the past (Department of Defense 2016). Although women are the minority in the military, they are more likely to be married, especially to a fellow military member (Karney & Crown 2007; Lietz, Stromwall, & Carlson 2013) and have higher divorce rates than military males (Wang et al. 2015), with those married to civilians most likely to experience failed marriages (Karney & Crown 2007). The opposite holds true for males in service, whose marriages to civilians are the most successful while also the most plentiful (Karney & Crown 2007). The divorce rate in 2010 among military personnel was 7.8% for females as compared to 3% for males and the reason most cited as the cause of divorce by female participants in the Rossiter & Chandler (2013) study was deployment, followed by PTSD, military sexual trauma, tours of duty, spousal infidelity, and reintegration complications. Negrusa, Negrusa & Hosek (2014) also found deployment to be particularly harder on female military members in their study, as mentioned earlier.

While female military members indubitably appear to be at higher risk for divorce within the military population, the lack of insight into the female experience leaves questions as to causes of this disparity. Could the additional role of motherhood be applicable for those with children? Have the military fully embraced women within the armed forces and considered the various aspects in which gender may be significant? Unfortunately, not much literature exists on this topic and as mentioned at the beginning of this paper, limited access to data and service member information, makes it even harder to identify the causes of disproportionately higher failed marriages in the female population of the military.

Results from the Literature Analysis

The military is a complex organization with a long history, proud traditions, and the propensity towards constant change. In recent times the change in the composition of the military and its diversity is even more pronounced than earlier as the percentage of females fighting alongside men is increasing every year, same-sex couples are being accepted and acknowledged, and the need to keep a state of constant readiness as technology and wartime evolve. However, changes bring new needs and thereby new opportunities to serve those that serve in a manner that enhances their quality of life. Research about the personal outcomes and relationships of the military members has been limited by a lack of access to data and information. Longitudinal studies are constrained with data limited to personnel records supplying superficial information. Qualitative studies have been conducted heterogeneously with focus on different branches without any way to connect the results meaningfully across the five branches of the military, thereby preventing generalizability and supplying conclusive results.

The key findings from the literature discussed above indicate that the benefits and incentive structure of the military could inadvertently increase the likelihood of earlier marriage and even reduce the likelihood of divorce in the long run, but there is no available quantitative analysis that estimates this relationship statistically. The selection hypothesis that pre-existing risk results in failure of the marriage independently of the military aspect of the relationship has not been tested conclusively in the literature. Physical or mental illness can impede career progression resulting in an under reporting of conditions like PTSD in active duty personnel. Studies involving veterans versus active duty members are easier to conduct, learning more about the effectiveness of the screening process and areas for improvement may alleviate deploying unfit members to begin with and avoiding the potential damage upon their return. Treatment options that incorporate the family unit as a whole, to include the spouse and children if pertinent, may increase overall understanding of the illness and cultivate effective communication between the couple. Reintegration from lengthy separations is a challenge for the entire family, and an area where improvement could be made for gradual immersion. Despite multiple efforts, the unique experience of female personnel and their marital satisfaction remains shrouded in even more mystery than their counterparts. Part of the reason for this gap is again, the lack of access to relevant data and the inability to collect more qualitative data directly.

Proposed Empirical Model

Based on the findings regarding military divorce rates from the literature, we hypothesize that factors such as deployment and PTSD contribute to increasing marital dissatisfaction, while age and gender of the military member matter in terms of negative marital outcomes. We propose a research design that uses married and divorced couples with at least one spouse being a member of the military as the unit of analysis. In the model, marital dissatisfaction would be the primary dependent variable. The challenge with measuring marital dissatisfaction is in the way it can be defined while collecting data. Thus, we can use the proxy of using marital status to represent dissatisfaction. If the self-reported marital status is divorced or separated legally, it is indicative of marital dissatisfaction.

The key independent variables to include are active duty measure (binary variable), separation from family measures (number of deployments, total tours of duty), number of years of marriage prior to military service, number of years of marriage post military service (if not active duty), total length of marriage in years, PTSD measures (binary variable representing presence of PTSD, ranked variable representing level of PTSD), number and type of physical injuries during active duty, access and utilization of reintegration services post active duty, gender of the military member, gender of the spouse, and other demographic variables. Thus, our general research model can be represented as follows:

Marital status = f(active, deploy, tours, years married, PTSD, injuries, reintegrate, gender, demo)

If an exploratory sequential mixed methods design is implemented, the first estimates of this model can be obtained quantitatively by using cross-sectional or longitudinal data from among all married military members, both active duty or retired, in the five branches. These results would indicate which of the key

identified variables are significant indicators of marital dissatisfaction in our military families, and therefore which ones require more in-depth analysis. Once these results are obtained, depending upon the type of data available either a more complex quantitative analysis approach can be implemented to predict the probabilities of marital dissatisfaction. Given the difficulties that previous researchers have faced, as well as the challenges we have faced in trying to access and use data for this exercise, we are unsure what the results of regression model are likely to be and therefore initial estimates obtained by using cross-sectional data from either the DMDC, VAORD, or the DOD, for all five branches of the military, might still be a pipedream.

On the other hand, a mixed-methods approach that collects primary data by reaching out to married, divorced or separated military couples through surveys and interviews can provide insights into the workings and unique challenges of a military marriage. In the first, quantitative phase of the study, the data based upon our research model given above would be collected from surveys completed by military members who are currently serving or have served in various geographic areas administered by their local support service providers. The distribution would equitably include the Air Force, Navy, Marine Corps, Army, and Coast Guard personnel of all races, ethnicities, and genders. Those who are utilizing support services for mental health or marital counseling services will have reasons for doing so, and the benefits derived from the research findings could be deemed valuable, thereby encouraging the intermediate organizations to invest in the delivery of the survey instrument. Once the data is collected, estimates can be obtained as described earlier using a regression analysis approach and the significant variables can be identified within the military families. Once the identification of which type of military members are most effected are made, the next phase can be implemented. The second, qualitative phase would be a series of interviews that would provide key insights into the specific factors that influence marital dissatisfaction in a military relationship. While the access to active duty personnel is more challenging as compared to reaching out to those who have completed their military service, having the information while the member is in the throes of the experience would prove beneficial for clarity as well as highlight current processes in place that negatively impact the military marriage. Discovering the existence and influence of stigmas and barriers to seeking aide would be identified during the stages when it could influence change successfully. Additionally, the spousal perspectives would be directly included in the interview portion of the study, thereby giving the importance of the hypothesized factors not only on the military member but also on their household as a unit.

Conclusions

There is much to be learned about military marriage and its implications. Conclusions from the literature regarding the predisposition of military marriages for failure are often conflicting at worst and uncertain at best. Since support services vary, each branch of service needs to be examined as its own entity in order to obtain results that are specific to its needs. While it is easy to discuss and hypothesize what data from the military show in quantitative and qualitative terms, if it were available, some of the simplest solutions for increasing longevity of military marriages might be as easy as asking the right questions and paying closer attention to the usefulness and utilization of existing support services.

For instance, identifying what portion of military services are voluntary and which are mandatory can make an impact on a married member's personal life. Effective pre-marital counseling is likely to help with improving marital satisfaction by setting the correct expectations for a military marriage. The various support services available to military members and veterans need to be tested often for effectiveness in lowering marital dissatisfaction and other issues among members and their households. It would also help to identify whether adequate support is being offered to females and same-sex couples in the military, given the changing dynamics of the composition of military members in all five branches. Longitudinal data on mental health and marital satisfaction for military members can offer beneficial insights into the long-term impacts of military service on personal relationships. While the Department of Defense and Department of Veterans Affairs are separate entities, collaborative approaches based on post-service treatment being sought out may advance care given while members are serving in an active capacity.

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Utilizing Artistic Reactions in Research: Elevating Affective Data

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ABSTRACT: Rarely does research design rely on the use of artistic processes to gather affective data. Scholars often rely on verbal communication to measure affective response rather than extracting data through creative mediums. Art therapists have long been writing about the power of creativity to uniquely surface emotion. Do artistic processes tap into affective data otherwise ignored? Can affective response further academic knowledge of power and influence? As noted by scholar and theorist Donovan Schaefer, affect theory highlights associations between semiotic forces and power. It offers a framework for understanding how emotional responses are shaped and experienced. Similarly, the Expressive Therapies Continuum (ETC), developed by art therapy pioneers Sandra Kagan and Vija Lusebrink, suggests a way to visualize expression according to the placement of affect in the body. The ETC therefore allows art therapists to guide and interpret creative processes. In a study titled, “Female Evangelical Multimedia Personalities: How Does Their Content Affect Female Viewers?” these theoretical frameworks are combined in a way that, to this author’s knowledge, has not been done before. As part of the study design, participants will be asked to react artistically and verbally to written and visual evangelical content. This study seeks to illuminate how artistic processes expose the affective influence and power of rhetorical content. The proposed presentation will provide a brief overview of these two theoretical frameworks, affirm the value of studying affect, and explore how researchers can utilize creativity to measure affective response.

KEYWORDS: affect theory, affect, expressive therapies continuum, research method, art, creativity, evangelical, women

Introduction

All human beings experience emotion to some degree. A vast array of research from social science fields, such as psychology, communications, and sociology, explain that emotions are a form of communication (Burgoon, Guerrero, & Floyd 2016; Eaves & Leathers 2017; Ekman 2003; Koppensteiner & Siegle 2017; Mehrabian 2017; Sauter 2017). Art therapists in particular believe that artistic processes work to unearth emotions lying below conscious awareness (Moon 2016; Moon 2001). Art also helps articulate emotions of which one is aware but finds difficult to explain or process (Kalmanowitz & Ho 2016; Moon 2011). Mental health fields demonstrate to other disciplines the importance of exploring, understanding, and utilizing emotion. If emotions communicate to, through, and from the body, then it is important to listen.

Mental health and psychological disciplines regularly discuss emotion, but how can emotion be elevated, discussed, and utilized among researchers? Some scholars have written about creative approaches to research (Cahnmann-Taylor & Siegesmund 2017; Kara 2015), but many research guides do not include creative possibilities (Babones 2016; Bryman 2016; Elman, Gerring, & Mahoney 2016; Miller & Salkind 2002). If emotions communicate key aspects of the human experience, and the artistic process helps unearth, interpret, and express emotion, then does art not present itself as a viable tool for researchers seeking to understand emotion and impact?

There are two theories immensely useful in the pursuit to understand emotion and utilize art in research. The first is affect theory. Generally, affect theory “emphasizes correlations between nonlinguistic forces and power” and seeks to understand how people are emotionally influenced by the content exposed to them (Schaefer 2018, 68). This theory will be discussed extensively in this paper, so the term “affect” will be used primarily to describe emotion and both terms are considered interchangeable within the branch of affect theory utilized here. The second theory is the Expressive Therapies Continuum (ETC). If affect theory offers a framework for understanding how emotional responses are shaped and experienced, the Expressive Therapies Continuum (ETC) offers a way to

visualize expression depending upon where affect situates in the body. As understood by the developers of the ETC, art therapists Sandra Kagan and Vija Lusebrink, the creation of artwork (of various types) taps into our kinesthetic-sensory, perceptual-affective, and cognitive-symbolic levels of information processing, where creativity serves as a mediator level for moving along these planes of the continuum (Hinz 2009; Kagan & Lusebrink 1978).

These theories are combined in the study titled, “Female Evangelical Multimedia Personalities: How Does Their Content Affect Female Viewers?” This research study situates within a larger thesis project that is interested in prominent, public discourses in evangelicalism and their effect on young women in the United States. This study will expose participants to content from female evangelical authors (multimedia personalities) who publish in printed books, social media, blogs, and on websites. Participants will be asked to react artistically and verbally to written and visual evangelical content. In addition to gauging the affective experience of participants, this study seeks to illuminate how artistic processes expose the affective influence and power of rhetorical content. This paper explores affect theory, the ETC, and discusses the design and methods of this research study. Optimally, this paper will illuminate the importance of affect and provide evidence that the artistic process is a valuable research tool.

Affect Theory

Affect theory often focuses on the embodied experience of power through relationships with people, objects, language, and any interface that influences the body (Schaefer 2018). When we are affected by something, our bodies turn toward it, ascribe value, and allow it to shape us (Ahmed 2010). Affect theory highlights associations between the body and power and seeks to understand how content exposure influences the individual (Schaefer 2018). In *Religious Affects: Animality, Evolution, and Power*, Donovan Schaefer describes the relationship between affect and the human body as a spider web (Schaefer 2015, 98). Affect is an interwoven, interconnected, complex field of moving forces that acts as the foundation, the very groundwork, of the human body and experience (190). This web “carries his [subject’s] existence,” where the body is nestled into the web, stuck to it, but also ever-changed by it as the web transforms through time (von Uexkull as cited in Schaefer 2015, 98). This paper relies heavily on the work of Schaefer who describes affect in navigable, visual, often metaphorical terms. The following is a breakdown of key affect theory components extracted from themes presented in Schaefer’s work, utilizing other affect theorists to aid the exploration.

Linguistic Fallacy

Schaefer insists that we think beyond language. This does not mean language is not useful, necessary, or beautiful in its own right; but humans, particularly scholarly ones, often get stuck in language (Schaefer 2015, 189). Schaefer labels this the “linguistic fallacy,” where language is presumed essential for profundity and power (35, 117). He pushes back on the assumption that “where bodies go is fundamentally determined by language,” instead offering that it is an economy of affect, suffused by it (117, 202). In a poignant moment of visualization, Schaefer refers to language as “dropped on top of deep history, when bodies plunged into earth” (217). This understanding of language reverses the body’s locus of control, offering a rawness to what lies at the bodily core. Rather than language driving bodies, affect interrupts this assumption and instead offers a model in which what a person feels is actually the running engine. Language, and involved cognitive processes, then flow out of affective spaces and bodies.

Schaefer holds emotions in such high regard because he believes even without language bodies would be relating and influencing one another in space. He suggests solitary confinement as an illustration. Schaefer cites an autobiography by Henri Charriere titled *Papillon*, explaining that prisoners in this confinement would try to manipulate guards into offering attention by causing trouble; negative attention was better than no contact at all (95). In this type of isolation, the fleshiness of the body returns, stripped away from all things that might cover the body, and it seeks out the senses above all else. Schaefer states bluntly, “Rather than mutilating bodies, solitary confinement mutilates affects” (93). Schaefer’s establishment of the importance of the body and the

way affect saturates language leads naturally into framing affective questions. When language and cognitive processes are no longer the sole controllers of the body, this crucially influences the way scholars and students develop questions and structure analysis.

Framing Affective Questions

Schaefer continually asks two questions that help reorient the body and mind around affect. He asks, “What do affects do?” and “What do bodies do for affects” (Schaefer 2015, 125). Another example is, “How do the words on the page induce a tissue of ideas, concepts, and beliefs to create emotions?” (Schaefer 2018, 87). These questions seek to position conversations about power in ways that again place the body at the center and questions whether or not bodies are in control of affect at all (125).

Viewing research through an affective lens, affective data comes to the forefront. This creates space for researchers to think creatively about how to collect affective data since it is not always easily discernible. Affect is complex, layered, and can be difficult to articulate. This requires researchers to acknowledge that affect is located in all parts of the body and to elicit affective data one may need to employ techniques that traverse beyond linguistic and cognitive processing.

Power

“Power make bodies move” (Schaefer 2015, 35). The way affect and power push and pull on bodies elicits an image of seaweed in a current - tossed, swirled, gently carried, ripped apart. Schaefer views power affectively, as if emotions that describe and surround the way bodies and systems relate represents the ultimate force of power. Affects, particularly religious affects, are binding (118). The “performative dimension of affect” serves “to in-struct or in-form (rather than merely reflect, record, or document) the felt sense of reality that structures our encounters with power” (67). Bodies are pulled and pushed by the current, but they are intimately changed and transformed in the process. Ideology becomes a “technology for the production of affect” (144). It is more than discursive or political; ideology, and the means used to convey it, actually exerts force on the body (Schaefer, 2018). The powerful affective utilization of ideology is also discussed by Bethany Moreton (2009), author of *To Serve God and Walmart*. In creation of employee culture, Walmart executives tapped into emotions and sentiments conveyed by local versions of Christianity. The administration aligned themselves with dominant local ideology, represented in ideals like “servant leadership,” one of the organizational values (Moreton 2009, 115). The affective drives beneath this term encapsulate the desire for male Walmart employees to praise their wives’ domestic work and to avoid “running the risk to share [work] equally,” ensuring loyal and focused workers (115).

Humans regularly witness affect moving between, through, and around bodies. When happiness rises to the surface of the body in the form of laughter, or shame and guilt are conveyed through tears and slumped shoulders, other bodies witness and, at least partially, experience what they see. Sometimes this sharing of emotion becomes so electrically charged that tears or laughter flow from other bodies, caught in the current. This is powerful communication. If affect rumbles beneath language and bodies, this speaks volumes about how content exposure of all types enters this affectual current to influence and impact the whole person.

Space

In order to fully think about the way humans and affect relate, one must consider the importance of space. In the earlier example of solitary confinement, sensory deprivation shows how vital not only the materiality of space is but also the sensory relationship to space, including “colors, shapes, images, sounds, voices, motion, change” (Schaefer 2015, 100). Schaefer frequently refers to bodies as “tethered,” or “affects as pulling on bodies even when the self is looking away” (103). This tethering can be both positive and negative. In the positive sense, it keeps bodies grounded, rooted, and helps to give shape and form. In the negative sense, tethering keeps people attached to harmful substances and dangerous behavior (105). Affect acts as an umbilical cord, providing source of life and necessary growth to the body. When this suddenly severs, the body cannot thrive and free floats in unfamiliar, ungrounded territory. Theorist Sara Ahmed discusses the way affect passes between bodies in her work

on happiness. She states, “Thinking of affects as contagious does help us challenge an ‘inside out’ model of affect by showing how affects pass between bodies...however...to be affected by another does not mean that affect simply passes or ‘leaps’ from one body to another. The affect becomes an object only given the contingency of how we are affected, or only as an effect of how objects are given” (Ahmed 2010, 36). As discussed earlier regarding ideology, the vehicle used to pass and receive affect is deeply transformative.

Kathryn Lofton describes the affective space Oprah’s products occupy in *Oprah: Gospel of an Icon*. She states, “Oprah...is always telling you what to do, always telling you how to do it...Even if you want to avoid her, even if you have avoided her, you have not (you cannot). She looms. She haunts the supermarket” (Lofton 2011, 8-9). Oprah’s work represents an ever-present affect etched into words and marketing images, traveling into and around bodies, churning and transforming within the body only to emerge again.

These concepts elevate affect as the actual force moving in space, rather than solely words and concepts moving between minds. This means spaces and bodies hold emotions, continually transforming them and contributing to the current that pushes and pulls. Picture the person crying at the sight of their childhood home, or sites of public protest, affectively charged as tensions build. Visualizing the spatial quality of affect helps to keep it grounded in the body. Affects operate in and between human bodies and those bodies operate spatially. This is important to keep in mind for researchers studying people and their bodies existing in specific spaces.

The Expressive Therapies Continuum

As stated previously, the ETC (Figure 1) divides information processing into three levels: the sensory-kinesthetic, affective-perceptual, and symbolic-cognitive (Hinze 2009, 5; Kagan & Lusebrink 1978, 171; Lusebrink 2015, 58-60). Creativity then mediates the transition between levels. These levels correspond to various stages of human development. Each component of the ETC has a distinct “healing function” and guides and organizes therapeutic and creative processes (Hinze 2009, 8). Color and medium choice, strokes used to apply medium, the way an instrument is held (pencil, marker, brush, etc.), and graphics utilized in artwork are all reflective of a developmental stage, where a person rests on the ETC and manifest emotions (Hinze 2009, 15, 30). Artistic creation and medium help to facilitate an oscillation between stages on the ETC, moving back and forth from the sensory to the kinesthetic, the affective to the perceptual, and the symbolic to the cognitive (Hinze 2009; Lusebrink 2015, 61). The ultimate goal is that creativity will integrate the levels within the person, allowing that person to transition with relative ease along the entire continuum, from the kinesthetic to the cognitive and back as needed (Hinze 2009). One of the most recent, comprehensive and practical guides written about the ETC is Lisa Hinze’s (2009) *Expressive Therapies Continuum: A Framework for Using Art in Therapy*. Figure 1 illustrates the ETC.

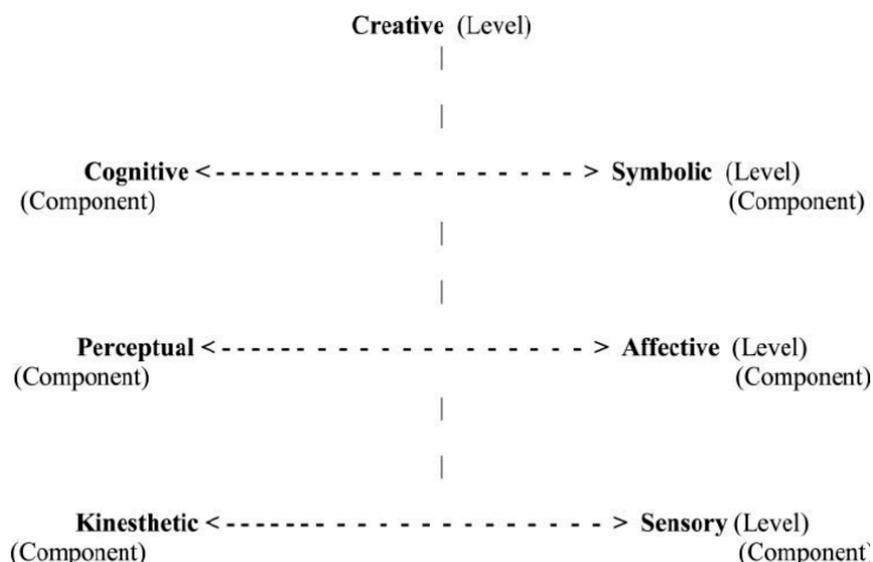


Figure 1. The Expressive Therapies Continuum (Hinze 2009, 5).

Levels

The kinesthetic-sensory level represents the simplest and earliest forms of information processing. Kinesthetic-sensory processing and expression is “rhythmic, tactile, and sensual” (Hinz 2009, 6). Associated with the earliest stage of human development, it forms the foundation of memory. Media used to bring the body onto this level is chosen for its “sensual aspects,” or to enable kinesthetic motion (Hinz 2009, 9).

The affective-perceptual level describes processing that may or may not express linguistically. Someone operating out of this level “can be emotional and raw, expressed in image without regard to form” (Hinz 2009, 6). Moving out of solely kinesthetic and sensory processing, forms start to surface. Those in the affective might be “caught up in emotion” or blinded by it (8). Shifting from perceptual to affective, forms may diminish and emotion dominates. This level can help enhance perspectives, increase empathy, healthily identify, process, and express emotions (10-11).

The cognitive-symbolic level is “complex and sophisticated” (Hinz 2009, 6). Operating out of this level requires “planning, cognitive action, and intuitive recognition” (6). Symbolic thought initiates access to intuition and recognizes that some experiences are mysterious and may not occur in the conscious mind. The cognitive offers “reality feedback” in all levels (12).

Using the ETC

Art therapists utilize various art media and techniques to unlock, elicit, or express affect. If an adult client operates primarily in the cognitive and has little interaction with the kinesthetic level, the therapist may choose to start a client with pencil drawing, a more restrictive medium. While the goal is to move a person along the continuum and tap into various levels of processing, the person must first start where they initially present on the continuum (Hinz 2009). Asking a person primarily operating out of the cognitive to finger paint may elicit an uncomfortable emotional response counterproductive to creative and healing processes. Similarly, asking a five-year-old child client to represent their emotions through symbols, and then provide solely pen and paper, is unlikely to spark creativity and may elicit confusion and frustration.

What can researchers learn from how art therapists use the ETC? First, understanding how affect, creativity, and bodily processing connect is crucial. For the researcher studying affect, it is not enough to state that affect is situated somewhere in the body and is expressed with the mind. The ETC and affect theory illustrate how complex and even creative the relationship is between the person and affect, requiring equally complex and creative methods to study and understand that relationship. This is not to say that traditional methods relying heavily on linguistic communication are not valuable and cannot reveal affective data. However, affect theory and the ETC point to a vast swath of affective data possibly lying just below the surface of what can be expressed linguistically. What if researchers more often combined verbal processing and creative processing in their measurements? What might this unearth?

Research Study Design and Method

Affect theory and the ETC are combined in the study “Female Evangelical Multimedia Personalities: How Does Their Content Affect Female Viewers?” to measure any possible impact this type of content has on female participants. As both of these theories indicate, affective forces and responses are crucial to the human experience. This study will attempt to elevate the affective voice utilizing both creative and verbal processing to measure participant experience.

Content

The desire to analyze the relationship between evangelicalism and public forms of communication is not new. From roadside attractions to Christian magazines to the evangelical roots of Wal-Mart, many authors have sought to unpack aspects of the Christian communications world (Beal 2005; Bielo 2018; Hendershot 2004; Moreton 2009). Research also reflects interest in how evangelical beliefs and principles influence evangelical women (Claney, Hall, Anderson, & Canada 2018; Davis, Horrell,

Anderson, & Hall 2018; Griffith 1997; Stephan 2008), and explores the complex relationship between evangelical women and feminism (Creegan & Pohl 2005; Hardesty 1999; Ingersoll 2003). Works on this topic represent a diverse group of theoretical frameworks, including grounded theory (Claney, Hall, Anderson, & Canada 2018), feminist theory (Griffith 1997), theories of marketing and communications (Hendershot 2004; Lofton 2011), and a “religion-entertainment” framework (Bielo 2018, 176). To this author’s knowledge, there has not yet been research that explores the influence of evangelical styles of communication and marketing through the lens of affect theory while also utilizing an expressive therapies theory. The tenets of affect theory offer a crucial framework for how to analyze whether the content of theologically conservative and liberal female multimedia personalities elicits a different affectual response in female viewers from ages 18-35.

While there are numerous evangelical authors in the public sphere, one way to measure influence is through online media presence. Conservative female authors like Lisa Bevere, Sarah Jakes Roberts, Joyce Meyers, and Beth Moore, and liberal female authors such as Sarah Bessey, Nadia Bolz-Weber, Rachel Held Evans, and Jamie Wright, have thousands (or in some cases millions) of Twitter and Instagram followers. These women have become multimedia personalities as their influence and authorship extends through published books, blogs, social media, podcasts, and some have trademarked ministries or curriculum geared toward the Christian lifestyle. These various forms of communication serve to spread either a conservative or liberal view of Christian belief, exploring themes like family, marriage, sexuality, devotion, worship, justice, and more (Bessey 2018; Bevere 2018; Bolz-Weber 2018; Held Evans 2018; Jakes Roberts 2018; Moore 2018; Meyer 2018; Wright 2018). Each personality utilizes marketing in a specific way, which unites the book, website, and blog, all reflecting the specific stylistic brand of the author. Research shows the way ideology is marketed and communicated matters to the way consumers receive, and possibly even believe, the message (Hendershot 2004; Moreton 2009; Lofton 2011). Research in sentiment analysis indicates that positive or negative sentiment is conveyed through textual and visual content in media (Ignatow & Milhalcea 2018; Pozzi, Fersini, Messina, Liu 2017). This study seeks to focus in on how the sentiments and ideologies conveyed through this specific communications market impacts young female viewers.

Design & Methods

This study is designed to operate in two parts. Participants will view the content of eight multimedia personalities, four of which represent conservative theology (Bevere, Jakes Roberts, Meyers, Moore) and four represent liberal theology (Bessey, Bolz-Weber, Held Evans, and Wright). The personalities were chosen based on substantial online influence and published material, measured mainly through social media presence and following.

In section one, participants will complete a brief baseline interview to disclose ethnicity, region of origin, religious affiliation, comfortability with art supplies, and how often (if at all) they read religiously themed material. They will also be asked to indicate their current affect (happy, sad, neutral, etc.) using Plutchik’s color wheel before starting the research procedures.

Plutchik’s wheel of emotion (Figure 2) will be utilized to assist participants in naming emotions (Plutchik 2001). This wheel, developed by Columbia University psychologist Robert Plutchik, outlines eight core emotions and closely associated variants (Plutchik 2001). The wheel assigns colors to each emotion and as the color intensifies so does the emotion. For example, while emotions related to “fear” are all green, a darker green is assigned to “terror” while a lighter shade is assigned to “apprehension” (Plutchik 2001, 348). A large body of research has utilized Plutchik’s wheel to categorize and describe emotion, only a few of which are referenced here (Kamińska & Pelikant 2012; Libert & Tynski 2013; Loia & Senatore 2014; Tromp & Pechenizkiy, 2014). The wheel will help to prime participants for the art exercise where they will use color to express their experience.

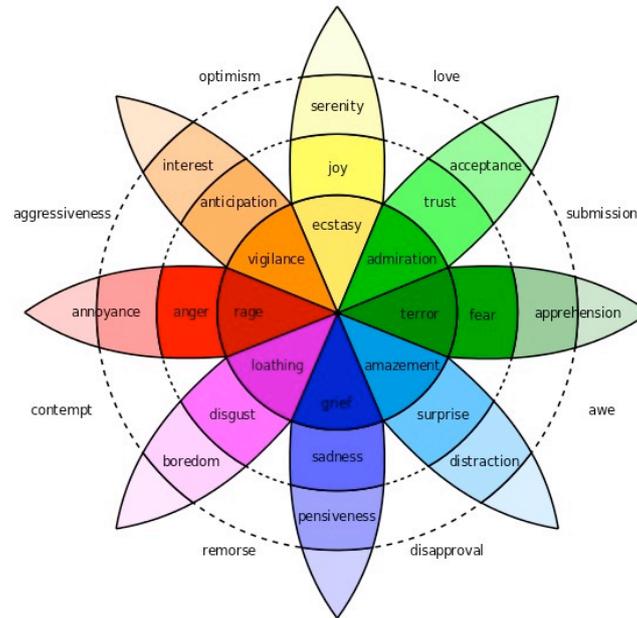


Figure 2. Plutchik's Wheel of Emotion

After establishing a baseline, participants will be presented with pre-selected excerpts from books, blog posts, social media posts, and online website pages from four conservative multimedia personalities. After participants read and view this material, they will be given a small blank canvas, acrylic paint, and a variety of tools with which to apply paint. Acrylic paint has been chosen in advance as the medium due to its' fluid quality and ability to invoke feeling. The ETC states that medium choice lies on a spectrum between fluid and resistive, fluid being those that invoke the most emotion and resistive being those that help to keep vulnerabilities below the surface. Acrylic paint lies comfortably on the fluid end to help unearth emotion without creating an overly raw emotional experience (Hinz 2009). Participants will be asked to paint symbols, images, or color fields of their choice on the canvas. They will then complete a brief questionnaire about their experience of reading this content.

For section two, all of these steps will repeat, substituting in liberal multimedia personality content. After completing both sections, there will be a closing interview to record final thoughts about the content and overall experience. They will also be asked to complete one last Plutchik's wheel to measure final affective state.

It is important to note that participants will be provided a resource sheet with contact information for nearby mental health resources should they find the need to speak with someone about their experience or to further process any emotional response. Whenever researchers or other professionals seek to unearth emotional responses, resources to attend to these responses should always be provided.

Analysis

Descriptive statistics will be used to describe and categorize the sample of participants. The bulk of analysis will be qualitative, where the interview, questionnaire, and artistic responses will be analyzed in the context of the sample utilizing the theoretical frameworks outlined previously. Art therapy resources, such as the work of Lisa Hinz, can help guide analysis of artwork, looking carefully at color choice, symbols, line weight, image content, choice of paint application tool, and more. Written analysis will compare variation in responses (verbal and artistic) depending on the precipitating content.

This study also lends well to utilizing topic modeling tools to enrich analysis. Entering the same content that participants will be viewing through a topic modeling software might show what a machine observes about the content versus what participants perceive. This could further enhance discovery related to content exposure.

Limitations

As evidenced by affect theory and the ETC, affect is complex, ever-changing, and cannot be measured fully in a brief timespan. This study will attempt to measure a glimpse of what is happening in the moment for participants, but recognizes that time constraints limit what can be measured. Future studies might alter the medium choice, or offer a variety of media to choose from, which might offer additional insights. The sample size for this study will be small and regionally located, and therefore not generalizable to larger populations.

Conclusion

Affect theory and the ETC as outlined here highlight how multifaceted, transformative, and crucial affect is to the human experience. Ideological content is just one example of ways humans are influenced and impacted on a daily basis. This exploration of theory and research methodology expresses one possible way of creatively measuring affect. If these theories teach nothing else, they show that creativity inspires the body to operate on other levels of creativity; in service of affect, utilizing creative processes in research can only further enrich analysis.

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Poverty Reduction Through Pro-Poor Tourism: A Case Study of Handicraft Sector of Varanasi

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ABSTRACT: Tourism continues to be a major activity in India, which inevitably produces economic, political, social, cultural and ecological consequences. In India, Tourism has created employment opportunities for airline executives, hotel sales managers, structural engineers, city planners, horticulturists, computer programmers, artisans, textiles workers, etc. In spite of its growth, it has not reached out to the masses because the net benefits accrue only to a limited segment of the society, to say, big business agents. It is an imperative duty of the so-called richer class to reach out the benefits directly to the Pro-Poor People who are actually working into the tourism sector day and night. Thus, Pro-Poor Tourism (PPT) is tourism that results in increased net benefits for poor people or marginalized section of the society. The aim of this paper is to explore the prospects and challenges of 'pro-poor tourism strategies' and its significance in poverty reduction by generating employment in handicraft sector of Varanasi in order to identify useful lessons and good practice for livelihood and capacity building, leadership and community development for sustainable development.

KEYWORDS: Pro-Poor Tourism, Employment Generation, Poverty Reduction, Livelihood and Capacity Building, leadership & Sustainable Development

Introduction

World over tourism has emerged as one of the priorities of governments as a sector with immense potential for economic development, employment generation thereby reducing poverty. Various international agencies like the World Tourism Organization (WTO) have pointed out the vast developmental potential of tourism, particularly with reference to the developing nations, like India. It is widely recognized that economies like India and China would emerge as the superpowers in world tourism in the next 20 years or so.

In the year 2006, the foreign tourists' arrivals in India (4.45 million) have been almost doubled that of 1996 (2.29 million), while the earnings have almost tripled during the period, from Rs. 10046 Crore to Rs. 29604 Crore. Further, in line with the above increasing trend, for the seven months' period January to July 2007 the provisional figures stand at 2.76 million as against 2.47 for the corresponding period of 2006.

Definition of Tourism, Pro-poor tourism & poverty

The World Tourism Organization defines tourism as 'The activities of persons traveling and staying in places outside their usual environment for not more than one consecutive year for leisure, business and other purposes.' However, we all know that **Pro-poor tourism** generates net benefits for the poor (i.e. benefits are greater than costs). Economic benefits are only one (very important) component – social, environmental and cultural costs and benefits also need to be taken into account. Pro-poor tourism **strategies** are concerned specifically with impacts on poor people, though the non-poor may also benefit. Strategies focus less on expanding the overall size of tourism, and more on unlocking opportunities for specific groups within it (on tilting the cake not expanding it) (Koch, with de Beer, and Elliffe 1998).

Who are poor

To define poverty is difficult. There is an international poverty line (US\$1.90 per person per day, averaged among household members) and most countries have a national poverty line, but these are hard to apply in the field. It is often more useful to identify disadvantaged groups by socio-economic

status (landless labourers, female headed households, poor fisherman, etc) or use key indicators of poverty (no regular wage income in the household, unable to eat 2/3 meals a day). Such indicators are also useful for distinguishing the ‘poorest’ (e.g. dependent on others etc) from the ‘fairly poor’ (e.g. unskilled labourers, struggling, some casual work etc).

To fully understand the economic impacts of tourism on poor people, on the local and national economy, would require a considerable amount of data and a strong methodology. For example, while most effects of an increase in tourism revenue lead, eventually, to an increase in national income, the direct consequences for the distribution of this among households (and within households) are not necessarily the most favorable for reducing poverty.

Poverty may decrease for some and even increase for others. An increase in tourism provides a direct increase in income to those who supply the hotels, transport, and other services, and also to the host country through tax revenues and perhaps some service charges. It then provides indirect increases in income to others through the spending of the direct income. How these changes are distributed will determine the direct impact of tourism on poverty, thus distribution needs to be assessed. A major potential impact comes from how policy makers react to the increases in income: if they have a pro-poor orientation, they can both redistribute the income (through taxes and public spending) and influence its original allocation (e.g. by regulating the types of tourism). Therefore data on total tourism impact, information on where this comes from, and consideration of different types of impact, were considered and taken into account for drawing conclusions..

Advantages of Pro-Poor Tourism in poverty reduction: However, tourism does have some advantages over other sectors for delivering pro-poor growth (Deloitte and Touche, IIED and ODI 1999):

- Tourism delivers consumers to the product rather than the other way round. This opens up huge opportunities for local access to markets for other goods and services. Development strategies can enhance potential links to local enterprises and poor producers.
- Tourism does not face tariff barriers, although taxes on air travel can have a similar effect.
- Tourism has considerable potential for linkage with other economic sectors – particularly agriculture and fisheries. Realizing these linkages will increase the proportion of tourism revenue retained in the host country.
- There is a possibility of other types of linkages, for example, demand for tourism may add sufficiently to another sector’s demand for the combination to provide a basis for introducing local provision of goods or services, (e.g. transport.)
- It may create an initial demand for a good or service that can then itself become a growth sector.
- Tourism provides opportunities for off-farm diversification. Tourists are often attracted to remote areas with few other development options because of their high cultural, wildlife and landscape values.
- Tourism provides relatively labour-intensive opportunities. It is more intensive than manufacturing and non-agricultural production, although less labour-intensive than agriculture. Its relation to the economy as a whole therefore depends on the relative weights of agriculture and manufacturing: this suggests that it is more likely to be among the most labour intensive sectors of the economy in more developed countries.
- Tourism can provide poor countries with a significant export opportunity where few other industries are viable. It appears to be more like manufactures, where comparative advantage can be created through a combination of identifying a possible product and creating a specialized demand.
- Tourism products can be built on natural resources and culture, which are assets that some of the poor have.
- The infrastructure associated with tourism development (roads, electricity, communications, piped water) can provide essential services for rural communities which would otherwise be excluded from general infrastructure provision.
- It has a high income elasticity, and therefore offers a relatively rapidly growing market.

- Tourism may be expected to perform 'better' than traditional commodities, but not necessarily better than newer exports such as manufactured products.
- It can take different forms, using different inputs, and is therefore available to a wide range of countries (and regions within a country).

Discussion

Strategies for PPT can be broadly categorized into at least 6 types.

1. **Expansion of business opportunities for the poor:** e.g. have small enterprise development programmes (training/support/micro credit) been developed or markets expanded.

2. **Expansion of employment opportunities for the poor:** e.g. are unskilled jobs created and available to the poor.

3. **Addressing/enhancing the environmental impacts of tourism that particularly affect the poor:** e.g. any changes in access of the poor to land and natural resources. (Goodwin, Kent, Parker, and Walpole 1997).

4. **Enhancing the positive and addressing the negative social and cultural impacts of tourism on the poor** (e.g. sexual exploitation, loss of identity, women's economic participation, improved communication, health, schools, infrastructure, etc.).

5. **Building a supportive policy and planning framework:** e.g. encouraging government approaches that support PPT.

6. **Developing pro-poor processes and institutions:** e.g. decision-making that includes participation by the poor (whether in government, at local level, within a resort/enterprise etc).

7. **Specific actions to involve the poor or address barriers to participation:** Many barriers limit the economic involvement of the poor in tourism. Several were identified in Pro- Poor Tourism: Putting Poverty at the Heart of the Tourism Agenda, along with some suggested actions that can address them.

Current Status of Handicraft Industries in Varanasi

- In the primary survey of the MSMEs the main areas covered were Kandwa, Amara, Chandpur, Bhatti, Ramnagar, Chunar, Bazardiha, Khojwa, Assi, Sarnath, Samneghat neighbouring areas on the bank of Ganges.
- Various villages were specialized in the handicraft of specific items like Kandwa, Bhatti and Amara village had small units of clay toys e.g dolls animals, pots, sigar etc.
- Ramnagar craftsmen now doing clay and pottery work but some eight to ten years back they were highly specialized in stone work and marble craftsmanship which due to lack of demand and upgradation of technology had declined.
- Chandpur has taken over the work of stone and marble in suburbs where various sculptures are made up of stone and marble and they are earning good amount of income due to their improved art and workmanship.
- Khojwa village is specialized in wooden handicrafts like small boxes, pen stand statues, chariots, flowerpots etc.
- Bazardiha once was highly specialized in Zari and Zardozi work but due to lack of financial and technical support the artisans are nearly facing acute poverty and are shifting to other areas for their livelihood. The art of Zari work and Zardosi requires great intricacy which is almost on the verge of decline now.
- Chunar area has opted for Plaster of Paris (POP) work instead of intricate enamelled carving on blue and white pottery which was once very popular art in the area.

There is also a center for Chinese clay work run by the Government of Uttar Pradesh in Chunar which gives training to the new workers but is currently not operating to its optimum level hence the artisans are forced to opt for other manual work like breaking of stones or working in MNREGA etc. as not much employment opportunities are available in this area.

Table 1: Specific problems of 8 selected Handicraft industries

Sr. No	Problems of Selected handicraft sectors	Main causes
1	Wooden toys & Artifacts	Chronic poverty due to lack of any government facilities 65 %, Lack of Infrastructure and marketing facilities 35 %
2	Clay toys	Lack of buyers 80%, No credit facilities 20%
3	Zardosi and Zari works on fabrics	Lack of Infrastructure 70 % & Illiteracy 30%
4	Meenakari on pottery	Lack of buyers 45 % and lack of availability of trained craftsmen due to labour mobility 55 %
5	Glass & Wooden beads	Lack of Infrastructure 55% & Illiteracy 45%
6	Glass bangles	Lack of awareness 42 % and Chronic poverty 58%
7	Brass & Copper Artifacts	High costs due to labour mobility 65 %, No credit facility 35 %
8	Decorative Embroidery on Artifacts e.g. hand bags wall hangings etc.	Poor marketing facilities 68 % and lack of trained craftsmen 32 %

Source: Compiled by author based on primary data collected from Varanasi

Results: From the table above it can be deduced that craftsmen working in different types of handicraft sectors are facing serious challenges clearly due to lack of infrastructure and any government support.

Further, Illiteracy and rampant poverty has compelled them to live with meager resources hence they are bound to live life below the poverty line. Government support is very much desirable here in this historic city.

Table 2: Link between PPT and Handicraft sector

Broad category	Chi Square		Asymp. Sig. (2-sided)
	Value	df	
Handicraft occupation*			
Does Tourism Impact handicraft sector	49.826	20	0
Occupational Impact*			
Has PPT increased any jobs in Handicraft sector	22.999	16	0.014
MSMEs Income *			
Does Tourism increase income of MSMEs	51.604	20	0
Income of small wage earners and Riksha pullers*			
How has ppt affected small wage earners and their daily work	21.366	16	0.015
Work status *			
Does tourism change their economic status	37.129	10	0
Social status *			
How has PPT impacted their social lives	5.631	8	0.009
Role of Govt in Future*			
How do you think in future Govt can bring change through ppt	2.557	8	0.059

Source: Compiled by author based on primary data collected from Varanasi

Table 3: Correlation between PPT and Handicraft sector

Broad category	Correlation			
	Value	Asymp. Std. Error	Approx. Tb	Approx. Sig.
Handicraft occupation * Does Tourism Impact handicraft sector	-0.183	0.073	-2.511	0.013
Occupational Impact * Has PPT increased any jobs in Handicraft sector	0.13	0.08	-1.772	0.078
MSMEs Income * Does Tourism increase income of MSMEs	-0.117	0.071	-1.593	0.113
Income of small wage earners and Riksha pullers * How has ppt affected small wage earners and their daily work	-0.33	0.065	-4.727	0
Work status * Does tourism change their economic status	-0.144	0.058	-1.973	.050c
Social status * How has PPT impacted their social lives	-0.096	0.058	-1.301	0.195
Role of Govt in Future* How do you think in future Govt can bring change through ppt	0.222	0.083	3.079	0.002

Source: Compiled by author based on primary data collected from Varanasi

Results: By the value of Chi square and Correlation test in between Linkage between Handicraft occupation to Tourism, we get that the association between them is highly positive with correlation 0.183 and chi square 49.826 which indicates the tourism will have positive linkage to handicraft occupation which will improve the occupation status positively. PPT relation to occupation shows a positive scenario with the chi square coefficient of association 22.99 and correlation 0.13.

Conclusion

Impact of tourism on the livelihoods of the poor

Assessing the livelihood impacts of tourism in Varanasi is not simply a matter of counting jobs or wage income. Participatory poverty assessments demonstrate great variety in the priorities of the poor and factors affecting livelihood security and sustainability.

Economic impacts

PPT can generate four different types of local cash income generally involving four distinct categories of people:

- Wages from formal employment.
- Earnings from selling goods, services, or casual labour (e.g. food, crafts, building materials, guide services).
- Dividends and profits arising from locally-owned enterprises.
- Collective income: this may include profits from a community-run enterprise, dividends from a private sector partnership and land rental paid by an investor.
- However in Varanasi still the experiment has not been done therefore, it requires time to assess its real impact.

Policy conclusions

Tourism development has not, to date, incorporated poverty elimination objectives. Participation by the poor in tourism, and the benefits they gain, depends on a range of critical factors including the type of tourism, planning regulations, land tenure, market context, and access to capital and training (Shah 2000). Many of these can be influenced by changes in policy or external support. Pro-poor interventions can and should be taken at three different levels:

- Strengthen rights at local level (e.g. tenure over tourism assets), so that local people have market power and make their own decisions over developments.
- Develop more participatory planning.
- Use planning gain and other incentives to encourage private investors to enhance local benefits.

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Affirmative Action in Post-Secondary Education: Contrasting Approaches in Brazil and Canada

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ABSTRACT: This paper compares and contrasts approaches to affirmative action that are intended to increase access to post-secondary institutions to students racialized as Black and Indigenous in Brazil and Canada, respectively. Both of these demographics are underrepresented in post-secondary institutions in these countries, as a result of the legacy of colonization and systemic racism within these nations. To explore various approaches to affirmative action a comparison of several documents are made including: the Brazilian Federal Law 11.645/ 2008, which obliges the addition of the History and Culture of Afro-Brazilians and Indigenous people to the national curriculum; the Brazilian Federal Law 12.711/2012, which supports access to federal universities and other federal educational institutions through quotas (best known as the "Quotas' Law"); and the Truth and Reconciliation Final Summary Report (2015), which provides 94 calls to action for the Canadian government to redress the issues created by the residential school system. Through document analysis, a list of affirmative actions is compiled, followed by an analysis of their implementation. Moreover, data related to racialized students who have benefited from these approaches, highlight the importance of affirmative actions to build more inclusive democratic systems.

KEYWORDS: affirmative action, post-secondary education, Brazil, Canada, racialized minorities

Introduction

Affirmative action is a controversial topic around the world (Sowell 2004). It entails providing preferential treatment to a specific group (usually a minority group) to bolster their opportunities in various aspects of life (e.g. education and employment). The rationale for giving specific groups preferential treatment is that societies are embedded with inequalities which hinder the opportunities of some groups (Kellough 2006). Thus, there have been a number of approaches to implement affirmative action including: 1) the passing of laws that prohibit discrimination and the implementation of procedures to investigate cases of discrimination; 2) gathering and analyzing statistics on various groups (e.g. admission rates); 3) enabling certain groups to have upward mobility (e.g. within the workforce); 4) increasing recruitment efforts for certain demographics and setting goals/quotas (Kellough 2006). The controversy surrounding affirmative action stems from the belief that those who do not receive affirmative action are being discriminated against and it has even been argued that these programs have a global legacy of being unsuccessful and even detrimental to society (Sowell 2004). Those who argue against affirmative action (e.g. Sowell 2004), take a narrow view of it relegating it to preferential treatment for one group and claim that affirmative action has caused tensions between various racialized groups. We depart from this view of affirmative action as we believe it encompasses the 4 points mentioned above and we also believe that affirmative action is not the root cause of animosity between racialized groups – specifically in the contexts of Canada and Brazil, we believe that the root cause is colonization.

We recognize the complexity of affirmative action and the various approaches to its implementation within different regions. Therefore, we turn our attention to the case of affirmative action initiatives in Canada (for Indigenous groups) and Brazil (for Indigenous and Afro-Brazilians) that pertain to post-secondary education. Through document analysis we seek to answer the questions: What are documented approaches/calls to affirmative action? How have they been put into practice? The documents we compare include: the Brazilian Federal Law 11.645/ 2008, which obliges the addition of the History and Culture of Afro-Brazilians and Indigenous people to the national curriculum; the Brazilian Federal Law 12.711/2012, which supports access to federal universities and other federal educational institutions through quotas (best known as the "Quotas' Law"); and the Truth and Reconciliation Summary Report (Truth and Reconciliation Commission

of Canada 2015), which provides 94 calls to action for the Canadian government to redress the issues created by the residential school system. In what follows we briefly describe the context of education in these nations, we describe the documents that are analyzed, we outline the approaches to affirmative action that we found, we discuss our results in their respective contexts, and conclude with our thoughts on these approaches.

Educational Contexts

Canada and Educational Systems for Indigenous Peoples

In Canada, education is provincially mandated and funded for everyone except when it comes to Indigenous Peoples – First Nations, Inuit, Metis (FNIM) – who are funded (actually underfunded) by the federal government (Carelton 2016). Underfunding is the lesser evil that FNIM have experienced from the federal government, when it comes to educational policies and specifically the residential “school” system. Residential “schools” operated in Canada between the 1830s and the mid-1990s (Legacy of Hope Foundation 2001). They were also funded, supported, and implemented by several church groups (Roman Catholic, Methodist, Anglican, Presbyterian and United) (Legacy of Hope Foundation 2001). Although, each residential “school” operated differently and some students did enjoy their experience, negative experiences prevailed across most “schools” (Truth and Reconciliation Commission of Canada (TRC) 2015). Once an Indigenous child was of an eligible age to attend school, she or he would be apprehended and sentenced to the residential “school” system.

There were various negative consequences at these “schools” including: separation from family and their community; the loss of language and traditions; low expectations; child labor; bullying; verbal abuse; sickness; hunger; physical abuse; sexual abuse; and death (TRC 2015). These institutions had a mortality rate of 50% (Walker 2009) and were a form of cultural genocide (TRC 2015). Some of the legacies of residential “schools” that persist today among FNIM are a loss of language, loss of culture, poor health, a lack of parenting skills, many FNIM children in Child-welfare, various maladaptive behaviours (e.g. abuse, drugs, alcohol, criminal activity), a distrust of schools, and low levels of educational attainment. Therefore, we examine the calls for affirmative action that have been set in place to combat the legacies of residential “schools.”

Brazil and Educational Attainment of various Racialized Groups

Similar to Canada, Brazil is experiencing the legacy of colonization through a number of disparities between racialized groups. Brazil – a country colonized by Portuguese people, and built with Indigenous, African, European, and Asian immigrants – consists of a huge diversity of cultures and traditions. Brazil is the largest country in South America and its current population is roughly 205 million people (IBGE 2017). The Brazilian Institute of Geography and Statistics (IBGE) develops seasonal surveys to track the main trends of the population. Regarding racialization, an analysis of self-declarations, the Brazilian population is basically comprised of those racialized as white (44.2%), mixed-race (*pardos* in Portuguese) (46.7%), and black (8.2%). The category of *pardos* itself is useful to demarcate the social, economic and educational inequalities between those racialized as non-white and white, although some authors like Moraes Silva & Souza Leão (2012) argue that the term is not sufficient to represent all cultural and economic symbols and barriers that those racialized as *pardos* face.

As a result of historical-political-economic oppression - which has affected non-white Brazilians since colonization and slavery times - there are a number of disparities between those racialized as “white” and those who are not. According to PNAD (2017), the monthly average wage of white Brazilians was roughly 2800, *reais* (723 USD), whereas black people and *pardos* people received 1.570 *reais* (405 USD), and 1.606 *reais* (415 USD), respectively. Inequalities extend to education: Illiteracy rates are 4.0% for those racialized as white and 9.3% for those racialized as black and *pardos* (PNAD 2017). Considering that access to post-secondary education requires prior

elementary and high school education, trends in Brazilian post-secondary education attainment tend to perpetuate the already existing educational-social-economic inequality. Just 9.3% of those racialized as non-white and over 25-year-olds hold a post-secondary degree against 22.9% of Brazilians racialized as white (PNAD 2017). However, studies conducted by the Brazilian government claim that gradually, the educational attainment scenario has been moving towards increasing access to upper education for those racialized as non-white. An IBGE (2015) report showed that in 2004, just 16.7% of students racialized as non-white (black and *pardos*) at the age 18-24-year-olds were attending post-secondary education, and in 2014, this rate increased to 45.5%.

Affirmative action efforts have been a part of the process of spreading post-secondary education to those who have been historically excluded. Both Brazil and Canada have taken affirmative action steps in these areas, in hopes of redressing disparities. For this reason, we examine key documents for the types of affirmative action that they have posited and to explore how these actions have been put into practice.

Key Documents

Truth and Reconciliation Summary Report

The Truth and Reconciliation Report is a multivolume collection that recounts the residential “school” experience. It is based on an extensive project put together by the Truth and Reconciliation Commission of Canada (TRC 2015). The TRC was created in 2008 as a result of a settlement agreement for residential “school” survivors (Moran 2017). It was intended to reveal the truth about the residential “school” system and to lay the groundwork for reconciliation across the country. The commission organized events across Canada to gather the testimonies of FNIM residential “school” survivors, it also collected relevant documentation that was related to the operation of the residential “school” system, and created the National Research Center for Truth and Reconciliation, and created the aforementioned report (Moran 2017). The final summary report is a condensed version of the multivolume work, which concludes with several calls to action. We analyze these calls to action for affirmative action approaches that are specifically related to education.

Brazilian Federal Law 11.645/2008 and Federal Law 12.711/2012

In 2003, the first Federal Law that introduced Afro-Brazilian culture to the curricula of public schools in Brazil was proclaimed. However, the law was considered narrow because it did not include topics regarding Indigenous culture and history. (Silva 2014). Thus, in 2008, this law was succeeded by the Federal Law 11.645/2008, which includes the teaching of Indigenous culture and history along with the teaching of Afro-Brazilian culture and history in the national curricula guidelines (specifically for elementary and high school curricula, but also having major implications for post-secondary teacher education programs), answering to social and political Afro-Brazilian and Indigenous movements at the time.

It is fundamental to mention that following this law, the National Equality Racial Statute (*Estatuto da Igualdade Racial*), a substantial federal law was passed, defining all *pardos* (*mixed race*) people as racialized as black, and victims of racism due to the fact that they are not considered racialized as white. In addition, the National Equality Racial Statute defined affirmative action as “the special programs and measures adopted by the State and by the private initiative for the correction of racial inequalities and for the promotion of equal opportunities” (Brasil 2010, 13). This law ushered in great political fervour that promoted additional affirmative action in Brazil. As a result, the Federal Law 12.711/2012, better known as *Lei de Cotas* (Quotas' Law) was published in 2012, as a necessary means to encourage social mobility through increased access to post-secondary institutions (Valente & Berry 2017).

Thus, the Quotas' Law, the Federal Law 11.645/2008, and the TRC Report are monumental documents in their respective nations. They similarly put forth measures to make society more

equitable and they both utilize strategies that we qualify as affirmative action. Given the significance of these documents, we examine their affirmative action strategies to outline thematic approaches to affirmative action that are being utilized in these countries, to highlight any differences, and to explore how these countries have attempted to implement these approaches.

Results: Approaches to Affirmative Action

Although the TRC summary of the final report (2015) did not directly use the word affirmative action, we found that it contained several calls to action that encompassed our 4 point definition of affirmative action (passing of laws that prohibit discrimination and enable investigation of it, gathering and analyzing statistics on various groups, enabling certain groups to have upward mobility and increasing recruitment efforts for certain demographics and setting goals/quotas). After analyzing the 94 calls to action and determining which calls were relevant to post-secondary education (those that mentioned post-secondary education, curricula, etc.), we found that these calls could be categorized based on 4 main affirmative action approaches: 1) to create a strategy for equitable access to education; 2) to collect data on FNIM and to release findings to the public; 3) to provide funding to support various FNIM initiatives related to education; and 4) to include culturally appropriate curricula.

Table 1. Approaches to affirmative Action based on the TRC's Calls to Action

Affirmative Action Approach	Calls to Action	Excerpts from the TRC's (2015) calls to action
To create a strategy for equitable access to education	7, 10	"We call upon the federal government to develop with Aboriginal groups a joint strategy to eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians" (p. 195).
To collect data on FNIM and to release findings to the public	9, 10, 55	"We call upon the federal government to prepare and publish annual reports...[on] educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people" (p. 196).
To provide funding to support various FNIM initiatives related to education	8, 10, 11, 62	"We call upon the federal government to provide adequate funding to end the backlog of First Nations students seeking a post-secondary education" (p. 199).
To include culturally appropriate curricula/programming	10, 16, 62, 64, 87	"We call upon post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages" (p. 205).

Similar to the approaches in the TRC summary report the two Brazilian federal laws did not mention the word affirmative action. However, the laws met the criteria of our definition of affirmative action as they relate to recruitment efforts. Although the Brazilian Federal Law 11.645/2008 is about providing culturally relevant curricula to Indigenous and Afro-Brazilians, we view this as a way of supporting learners' recruitment and retention through the use of engaging/relevant curricular content. The Federal Law 11.645/2008 represents the starting of a nationwide affirmative action process in Brazil and was a key stepping stone for the Quotas' Law, which is a clear example of an affirmative action as it requires that 50 % of all places existent in

post-secondary federal institutions are reserved for black, *pardos* (mixed-race) and students economically vulnerable. In an effort to make the mechanism of this law clear, Valente and Berry elaborate (2017, 21)

Within this quota, half of all slots are allocated to students whose family income is less than or equal to 1.5 minimum wages per person in the household. Within this quota, slots are reserved for black, [pardos], and indigenous students in proportion to the percentage of these groups in the state where the university is located. In the state of São Paulo, for example, approximately 30 percent of the population is black, brown, or indigenous, whereas in Bahia this number is close to 76 percent. According to this new law, if the specified racial groups do not fill the quota slots, then the available slots should go to students who studied only in public high school. The implementation of quotas has occurred progressively: federal universities were to reserve 12.5 percent of total slots in 2013, 25 percent in 2014, 37.5 percent in 2015, and 50 percent in 2016.

Table 2. Approaches to Affirmative Action based on the Federal Law 11.645/2008 and the Quotas' Law¹

Affirmative Action Approach	Law	Excerpt
To create a strategy for equitable access to education	Quotas' Law- Federal Law 12.711/2012	"In filling of the spots referred to in the caput of this article, 50% (fifty percent) shall be reserved for students from families with income equal to or less than 1.5 minimum wage (one minimum wage and one half) per capita... Article 3. In each federal institution of higher education, the spots referred in Art. 1 of this Law will be filled, per course... by self-declared blacks, <i>pardos</i> and indigenous people ² ..." (Brasil 2012)
To include culturally appropriate curricula/programming	Federal Law 11.645/2008	"§1. The programmatic content ...will include several aspects of the history and culture that characterize the formation of the Brazilian population, from these two ethnic groups, such as the study of ...the struggle of the blacks and indigenous peoples in Brazil, black and indigenous Brazilian culture and black and indigenous populations in the formation of national society rescuing their contributions in the social, economic and political areas, pertinent to the history of Brazil." (Brasil 2008)

Our analysis of the TRC final summary report (2015), the Federal Law 11.645/2008, and the Quotas' Law yielded the following approaches to affirmative action, including those that: create a strategy for equitable access to education; collect data on FNIM and release findings to the public; provide funding to support various FNIM initiatives related to education; and those that include culturally appropriate curricula. Of these approaches, both Canadian and Brazilian documents had strategies to promote equitable access to education and to include culturally representative curricula.

Discussion

¹ The quotes of the Federal Law 12.711/2012 and 11.645/2008 were translated from Portuguese to English by the authors.

² It is also important to mention that in 2016, an addition to the Quotas' Law provided spots for students with disabilities.

The TRC's calls to action and the Brazilian laws have approaches to affirmative action that are shared and will be explored further, however, they have clear differences which are indicative of their differing contexts. Within Brazil, currently, all the federal universities and federal institutes of education are supposed to offer 50% of all their spots to black, *pardos*, Indigenous, economically vulnerable students and students with disabilities. This affirmative policy has allowed the number of Brazilians who are racialized as non-white to double in post-secondary education in a decade, as evidenced by IBGE (2015). Within Canada, reserving 50% of enrollment to marginalized students is unheard of (primarily because racialized demographics are more diverse) that said, there are institutions that reserve enrollments for members of given racialized groups (these allocations vary from one institution to the next), which suggests their efficacy.

Similarly, while the TRC has calls to action that are related to collecting data and acquiring funding, these approaches were not mentioned in the Brazilian documents analyzed. The reason for this is primarily that Brazil is already collecting extensive data through the IBGE on racialized groups and their standards of living. It is evident that Canada is lacking this information in regard to education and when reports are published they are not made annually (CBC Radio Canada 2018). Similarly, there were many calls to action in the TRC that pertained to receiving funding for various educational initiatives and the Brazilian laws had no mention of funding. Brazil has post-secondary institutions that are in the private sector (e.g catholic universities) and in the public sector, where students in the public sector can attend courses for free (no tuition fees) at universities and federal institutes of education maintained by the Brazilian government. Thus, the requirement to fund these programs and offset costs in federal institutions of education is already coming from the federal government. Since the TRC's calls to action have been posed the calls relating to funding for post-secondary education are currently in progress with the call to "develop and fund aboriginal content in education" (TRC 2015, 289) being categorized as underway (CBC Radio Canada 2018).

That being said, both countries had documents that called for introducing culturally representative curricula of racialized minority groups into mainstream education. This is not without its challenges as a superficial curriculum can be created and taught: through prejudice, pre-conceptual, misrepresented and stereotyped ideas about the minority groups' culture and history; a lack of didactic resources to introduce these topics in the curricula, and an inexperienced teaching force (Russo & Paladino 2016, Sales Pereira 2011). The TRC's calls to action took a proactive stance to mitigate these issues by stating that new Aboriginal education legislation must include "full participation and informed consent of Aboriginal peoples" (TRC 2015, 197).

Culturally representative curricula have been known to combat what Codjoe (2006) refers to as the mediocre monocultural classroom experience. It is also a powerful tool to redress internalized racial oppression, which certain racialized groups experience due to a White Eurocentric curricula (Sensoy & DiAngelo 2012). Internalized racial oppression occurs when a person of Colo[u]r, consciously and subconsciously, accepts the negative representation or invisibility of people of Colo[u]r in media, education, medicine, science, and all other aspects of society" (Sensoy & DiAngelo 2012, 113). Thus, it is no surprise that the TRC and the Federal Law 11.645/2008 require curricula to be representative of racialized groups that have been traditionally marginalized. Within Brazil, there is a consensus that this approach is a breakthrough in regard to affirmative action as it promotes Human Rights to repair the damages caused over centuries. (Russo & Paladino 2016, Sales Pereira 2011, Silva 2014, Da Silva 2010).

Although, we believe it is important to have these groups represented in curricula we also believe that it is necessary to pair this with "culturally relevant pedagogy" – a learner-centered approach that makes use of cultural competence and requires sociopolitical consciousness (Ladson-Billings 2012). Geneva Gay (2010) posits that culturally responsive teaching affirms students' cultures by: teaching to and through their strengths; communicating in ways that students understand best; allowing students to communicate in ways relevant to them; changing curricular content to include critical analyses; and using pedagogical strategies that reach various learning preferences. Culturally responsive pedagogy in praxis has proven to be efficacious in aiding the

learning of students including those who would otherwise be marginalized (e.g. those racialized as Black and having low socioeconomic status (Dei 2008; Emdin 2010; Ladson-Billings 2012).

Regarding supportive programming in post-secondary education, both Canadian and Brazilian institutions make use of students' centers. For instance, Centers of Afro-Brazilian and Indigenous Studies (*Núcleos de Estudos Afro-Brasileiros e Indígenas- NEABIs*) at universities and federal institutes of education were created in Brazil as a response to the documents analyzed, while some Canadian universities have had these institutions prior to the publishing of the TRC (e.g. Lakehead University). These centers connect professors, university students, and religious leaders who are representational of the racialized group as well as those who are allies; they can be linked to social movements (e.g. Idle no more); and they have access to professionals (e.g. social workers) who work at the institution. The main goals are to fight racism and to support racialized groups. To achieve these goals, some strategies from Brazil are outlined (as these centers do not have a cross-country policy in Canada and vary depending on institution), as shown in table 3.

Table 3. Main Strategies of Centers of Afro-Brazilian and Indigenous Studies

Strategies	Means to achieve
Professional Development	Promoting short-term courses, lectures and events in order to spread elements and topics of Afro-Brazilian and Indigenous culture and history. (IFSP, 2015; IFRS, 2019; UFPB, 2019; UTFPR, 2015)
Didactic Materials	Organize and make available didactic materials as books, articles, reports, videos and music related to Afro-Brazilian and Indigenous culture and history. (IFSP, 2015; IFRS, 2019; UFPB, 2019; UTFPR, 2015)
External community engagement	Invite leaderships of Afro-Brazilian and Indigenous religions and also leaderships from social movements to attend events, round-table discussions, share knowledge and build reports and institutional documents. Promote free and open courses to the local community in order to promote awareness regarding Afro-Brazilian and Indigenous culture and history. (IFSP, 2015 & IFRS, 2019)
Fighting racist attitudes	Identify racism attitudes in the educational environment, answering back with educational initiatives and, also to ""to establish a permanent forum for anti-racist reflection to, together with public authorities, promote racial equality." (IFSP, 2015, p. 4)
Research and Studies	Publicize research already existent related to Afro-Brazilian and Indigenous culture and history. Give support to research groups committed to new studies related to the topic (IFSP, 2015; UFPB, 2019; IFRS, 2019; UTFPR, 2015).

As a product and outcome of the changes enforced by the Federal Law 11.645/2008 and Federal Law 12.711/2012, the Centers of Afro-Brazilian and Indigenous Studies (as well as Aboriginal Student Centers) have played an important role in re-centering the histories of their respective groups. Producing didactic materials, which show achievements accomplished by non-white people in science, architecture, law, for instance, hidden and historically denied facts, enabling students and professors to develop a sense of respect and belonging with Afro-Brazilian and Indigenous cultures. Moreover, the centers are spaces that value and motivate research related to their racialized group. Aims, like getting the community together with the educational institutions to be aware of issues of racism are also important factors of support that these centers offer.

Future research

Although, an analysis of these documents has shown some approaches to affirmative action future research is needed to determine the outcomes of these actions (particularly in Canada where these calls are yet to be taken up or where these calls are just beginning to be utilized). Though access to post-secondary education has increased for the marginalized groups the types of courses that students racialized as non-white have been accessing are of concern. Given the labor market is deeply unequal in Brazil, wherein huge difference of wages among professions are noticed, that is not a matter of individual choice, but also represents how far non-white students are having the chance to pursue social and economically valued careers. Ristoff (2014) by analyzing data from Brazilian federal universities came up with interesting findings about the profile of university students: a) although the number of students racialized as non-white in courses as Medicine, Dentistry, Law and Psychology has been increasing, the rates show a still underrepresented number of non-white students when the proportion of students is compared to the total in Brazilian society; b) on the other hand, courses which do not yield high salaries (Social Sciences, Social Work, Education, History, Geography, Letters, Mathematics, Music, Theater and Pedagogy) concentrate a higher number of non-white students. In short, in spite increasing access to post-secondary education, there are disparities among which courses they are accessing and their career outcomes, which need to be explored in further research.

Conclusion

By analyzing two very significant documents for Brazil and one monumental report for Canada (Quotas' Law - Federal Law 12.711/2012, Federal Law 11.645/2008, and the Truth and Reconciliation Final Summary Report) to identify approaches to affirmative action, we noticed that approaches took the form of: creating a strategy for equitable access to education; collecting data on racialized groups who are marginalized and releasing findings to the public; providing funding to various support initiatives for the racialized group in relation to education; and including culturally appropriate curricula/programming. The use of culturally relevant curricula/programming and the development of strategies to increase access to post-secondary education were integral to both countries. We believe that the integration of said curricular content should be coupled with culturally responsive pedagogy, however these documents did not suggest this strategy. In addition, our analysis revealed that implementation of the mentioned affirmative approaches in these countries started belatedly, after the pressure of social movements and organizations, in the first decade of the 2000s.

Nonetheless, in Brazil, the actions, programs, and policies that became federal law, enabled a meaningful social change in post-secondary education. Although students racialized as black and indigenous usually tend not to enter careers with high paying salaries (Ristoff 2014), they are now occupying Brazilian campuses more than ever before (IBGE 2015). Consequently, due to the Brazilian federal laws analyzed in this article, Afro-Brazilian and Indigenous culture and history have started to be taught in an official manner, being included in the curricula of schools and becoming a field of interest and research for post-secondary institutions teacher education programs. All these measures play a crucial role to re-signify the social and cultural representation of populations who are racialized as indigenous and black in Brazil.

Regarding Canada, the TRC's Calls to Action have inaugurated an attempt for Canadians to recognize and repair historical mistakes and damages caused to FNIM, through the residential "school" system (Moran, 2017). The calls pertaining to education make it clear that the Canadian government must provide funding in this domain. Since, the publishing of this report the calls to action that require funding have been designated as in progress, meaning that projects have been proposed or are underway. This is a step in the right direction and shows that the federal government values the use of affirmative action in education and is in favor of a move towards equity. Although, to ensure the efficacy of these measures – as well as to explore the outcomes of

these actions in Brazil – it is necessary that further research is conducted and reports are publicly disseminated. Overall, we believe the affirmative action approaches mentioned in these documents are a necessary step, one that we hope will lead – whether directly or indirectly – to fighting systemic racism in these societies.

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Gender Issues in Russian Democratization: The Myth or the Reality?

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ABSTRACT: The aim is to determine whether the descriptive political representation of women is acceptable and achievable for the Russian political reality. Understanding the quality of democracy assumes going beyond mere political participation. It requires the actual representation of traditionally marginalized groups - women. Gender mainstreaming and the involvement of both sexes in political sphere is a sine qua non for any democratic structure. In fact, it may seem that women are included in the democracy, but in practice they are often excluded. Such situation is observed in Russia. The formal female representation in Russian politics exists only to eliminate direct discrimination against women. This nature of women's participation is confirmed by the fact that "women are involved in Russian politics to meet the needs of the regime." The low level of female representation is also linked to the lack of prominent political parties supporting women's rights. Formal female representation does not imply equal gender representation. Balanced representation may require a descriptive political representation – a visible match between the electorate and representatives. If women are half of the population, they should also compose approximately half of the legislative and executive bodies. Given the nature of the gender situation in the Russian political arena, it is not yet possible to represent marginalized groups in a descriptive manner, even though women are about 54% of the Russian population. The inclusion of women's issues in the agenda and mainstreaming of gender inequality is likely to make the descriptive female representation in Russia achievable.

KEYWORDS: women, Russia, democratization, formal and descriptive representation, gender

Is the formal female political representation in Russian politics a coincidence or the only possible way of development?

When considering the role of women in democracy, theorists usually distinguish between formal, descriptive and substantive representation (Haerpfer 2009, 267). The most achievable is formal, because it requires only the elimination of obstacles to women's participation in politics. Its purpose is the absence of the direct and overt discrimination in politics.

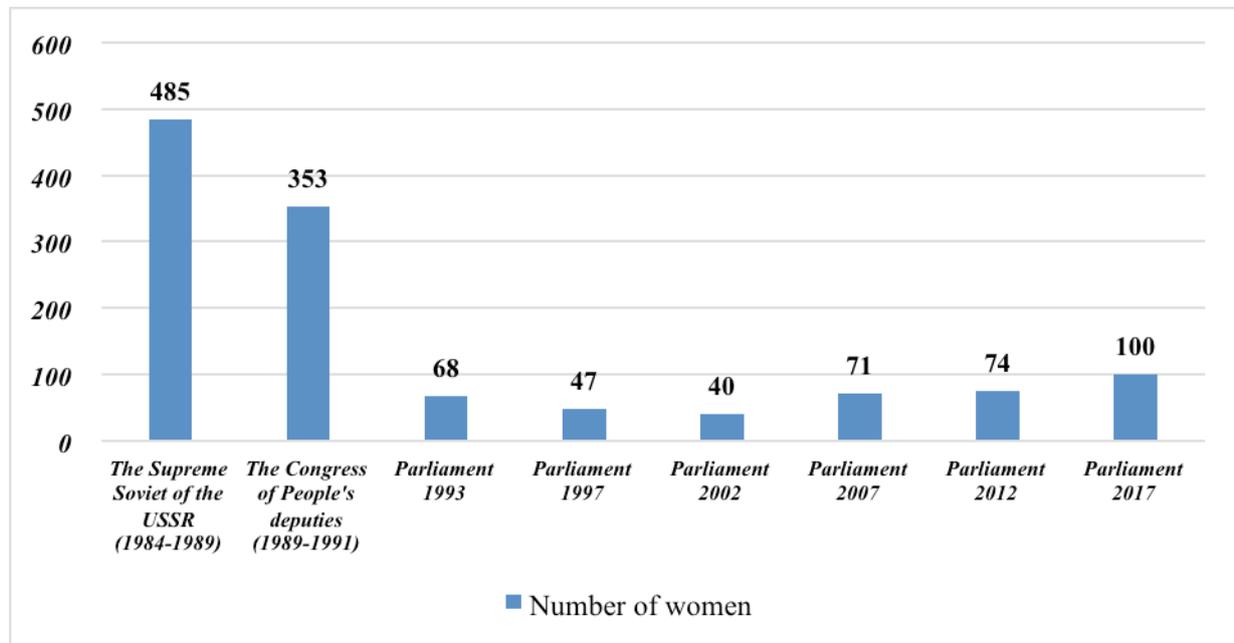
Nowadays there is only a formal representation of women in both legislative and executive branches of authority in the Russian Federation. The current state originates from the period of "perestroika", when the political representation of women has become the only way out of total gender discrimination in political arena. The article mainly analyzes the legislative power, as it reflects the gender order in Russian politics to a greater extent. There are a lot of aspects which defines the current gender order. Here are some of them:

1. Historical component. The transition period from communism to the new Russian regime was fundamentally linked to gender. In the intense era of Mikhail Gorbachev and Boris Yeltsin women faced many problems. On the one hand, the policy of publicity and "perestroika" led to the belated "sexual revolution", which gave some personal freedom to women. On the other hand, the transformation of the Russian state led to a huge national and class inequality. It was accompanied by a change of views on gender issues with the bias in favor of the traditional patriarchal society. Unemployment and poverty rates among women were significantly higher than among men. This situation has led to a decline in the birth rate and a general deterioration of many social institutions.

2. Abolition of the gender quota system and changes in the power structure. Russian gender policy was formed in the context of the abolition of Soviet gender quotas for the representation of women in elected bodies. As a result, the number of women deputies has decreased significantly (Loshakova 2013, 135-136). There are different interpretations of the reasons for the abolition of the gender quotas' system. The departure from quotas occurred when "national parliaments began to play an active role in the management and formation of state policy". Another view is that the

real integration of women into the political process should have replaced the quota system. In fact, it did not, so now the situation is there, where it should not have been (Aivazova 2017, 7).

In the last 25 years after the collapse of the Soviet Union, there has been a decline in the representation of women in government [Annex 1]. So, in the 11th convocation session of the Supreme Soviet of the USSR (1984-1989) 33% of the deputies were female. The Congress of People's deputies of the USSR (1989-1991) consisted of 2,249 deputies, 15.7% of whom were women.



Annex 1. Number of women in the highest legislative bodies since 1984

December 25, 1991 changed everything. From that day Russia became an independent state and was recognized by the international community as the successor state of the USSR. The changes also affected the authorities. The Supreme Council was replaced by a bicameral Federal Assembly consisting of the State Duma and the Federation Council.

The first parliamentary elections were held on the same day – 12.12.1993. Only 9 women were elected to the Federation Council, the upper house of the Federal Assembly. They accounted for 5% of the total number of deputies – 171. In the Duma, the situation was better: out of 450 deputies, 60 were female - 13.5%.

An important achievement of 1993 in the area of gender policy was the inclusion of a women's political party in the lower house of Parliament. Hope for the transition to a “liberal” democracy contributed to the formation of the movement “Women of Russia” in 1993. In the elections of deputies to the state Duma of the 1st convocation “Women of Russia” scored 8.13% of the vote and took fourth place. This result enabled them to obtain 23 mandates.

However, in 1995 the political activity of the population and women in particular decreased. During the period of political demobilization, many women's organizations were either marginalized or institutionalized by the government through their integration into other organizations. It exactly happened with the “Women of Russia”. In the autumn of 1995, the number was reduced to 20. In the next parliamentary elections (December 1995) “Women of Russia” received 4.61% of the vote and took 5th place without breaking the 5% barrier.

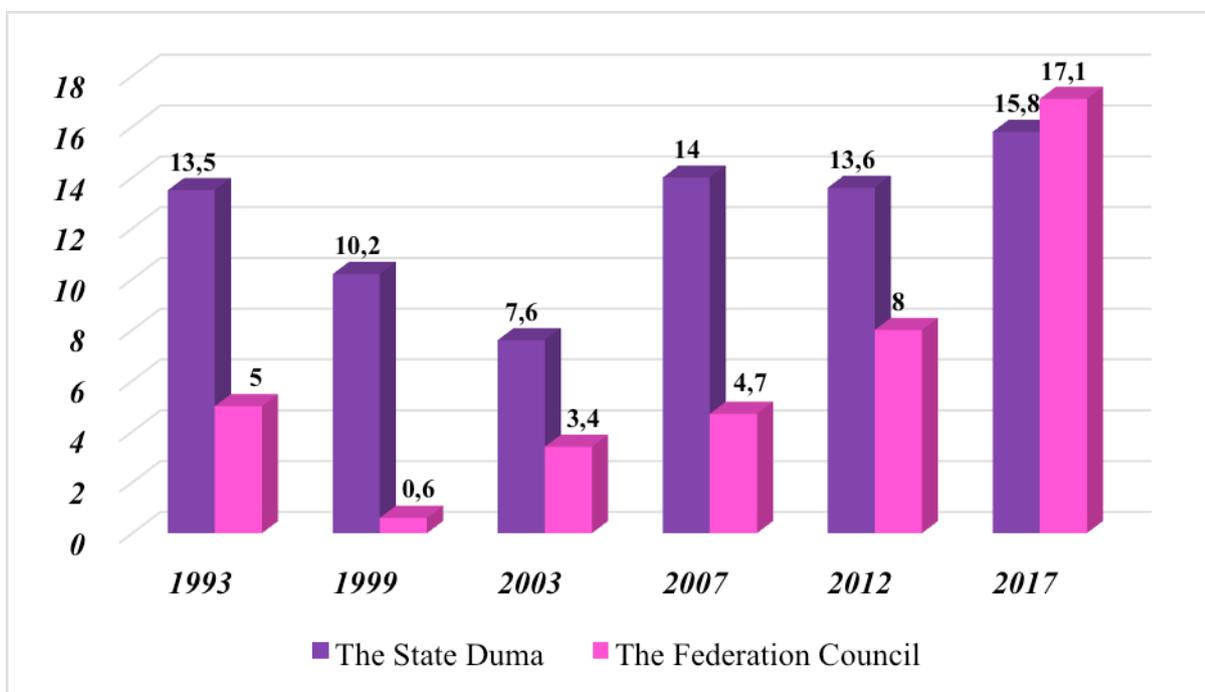
In 1996, there was a split of the party, one part of which “Lakhova’s Women” created their own all-Russian socio-political movement of Russian women, and the other part of “Fedulova’s Women” became the part of the political organization of Y. Luzhkov “Fatherland”. In the 1999 parliamentary elections, electoral support for the “Women of Russia” was halved: they received only 2.04% of the votes.

Another decrease in the number of women-deputies was observed in 1995. At this stage, the Federation Council was being reformed. In December 1995, a new Federal law was adopted, according to which “the head of the legislative (representative) and the head of the executive bodies of state power” are included in the upper house of Parliament “by the position” (Article 1 the Federal law of December 5, 1995, No. 192-FZ). Such changes have resulted in a record low number of women in the legislature – 0.5%. In 1995-1996, only one woman represented one of the constituent entities - the Republic of Karelia. The Duma consisted of 47 female representatives – 10.5%.

After the 1995 elections, many women began to gain popularity regardless of party affiliation. E. Pamfilova from the “Republican party of the Russian Federation,” the head of the Socialist workers’ party L. Vartazarova and the leader of the “Democratic Union” V. Novodvorskaya have established themselves as influential politicians. E. Pamfilova received the status of “the lawyer on behalf of women” (Hays 2016).

In the following years, until 2007, there were minor fluctuations in the quantitative indicators in the chambers of the Federal Assembly [Annex 2]. The role of women in Russian politics increased dramatically in 2007. Thus, the state Duma of the fifth convocation consisted of 63 women, which accounted for 14% of the total number of deputies. It is important to note that this figure has almost doubled. There is also an increase in the number of female representatives in the Federation Council, from 6 to 8, with a decrease in the total number of representatives in the upper house of the Federal Assembly (178 and 169 respectively).

Currently, there is a record number of women in the legislative branch in Russian history. Nowadays 71 women are the members of the VII state Duma, which is the largest number in the history of its existence. The situation in the Federation Council is similar: 29 women is a record number. Despite the increasing trend in the number of female representatives, gender asymmetry remains a characteristic feature of the Supreme legislative power.



Annex 2. Share of women in the Russian Parliament (%)

Therefore, it can be noted that the Russian example clearly fits into the theoretical features of formal political representation. Firstly, this type of representation does not necessarily lead to a significant number of women in political positions. As can be seen, Russian women remain largely unrepresented

in political decision-making positions. This means that formal political equality is not sufficient to respect the principle of gender equality in politics. Secondly, the combination of historical factors and the elimination of gender quotas has played a crucial role in establishing formal women's political representation. However, the greatest research interest is the reasons why the gender policy in Russia stopped in development, and without moving to the next stage of gender representation – the descriptive one.

Transition to descriptive representation: from theory to possibility

Descriptive representation is expressed in a clear correspondence between political representatives and the electorate. That is, if women make up half of the country's population, they must also make up half of the executive and legislative branches (Haerpfer 2009, 268). The difference between formal and descriptive political representation is obvious: formal representation is only a profanation of gender equality, an opportunity to formally hide gender imbalance in the political sphere. By contrast, the descriptive representation is a real action to combat and possibly eliminate gender inequality.

Currently, the problem of gender imbalance in the Russian political arena continues to be relevant.

There is a gradual departure from the implementation of the principle of gender equality, especially in the field of public administration. Women, as a rule, contribute to the development of solutions, but not directly involved in it. Due to this the proportion of female “professionals” involved in the preparation of information, documentation, accounting and service, is 88%. In this area, there are only 1 male out of 7 women.

Among the leaders (representatives) of the authorities and management at all levels, women are significantly less represented: the number of men is 1.5 times more than women. In the highest legislative body – the Federal Assembly – the gender imbalance is even greater: the number of male deputies exceeds the number of female parliamentarians by 5.2 times (Table 1).

Table 1. Distribution of employed men and women by areas in the legislature for 2017

	Men (ths.)	Women (ths.)	Men (%)	Women (%)
Legislature	5000	7400	40,3	59,7
The Federal Assembly	520	100	83,2	16,2
Heads of authorities and management at all levels	10500	6800	62	38
Employees – “specialists”	700	5200	12	88

The introduction of women into political decision-making involves a number of social (consequences):

1. unequal distribution of power;
2. the lack of a clear mechanism to ensure equality between the sexes.

Thus, it can be concluded that there is no actual gender imbalance in the Russian political arena. Factually, women make up the quantitative majority of those employed in political structures. However, the “quality” of such representation is highly questionable: occupying only the lower echelons of power, women are virtually not involved in political decision-making. Such a provision cannot a priori correspond to descriptive political representation.

Another reason for the impossibility of moving to descriptive representation is the problem of male dominance in the political arena. There is an opinion that some high-ranking male politicians only “let in” female politicians who do not have their own opinion, look good and are essentially puppets (Kiryukhina 2013).

The most undervalued reason for the presence of formal female representation is the non-involvement of gender issues within the political parties of Russia. The small number of women in decision-making positions in the legislative branch is linked to the low level of women's representation in the structures of parliamentary parties (Table 2). After the elections to the state Duma of the Federal Assembly of the VII convocation, held on September 18, 2016, the share of

women in any parliamentary party does not reach 20%. In half of the parties of the state Duma, the representation of women is less than 10%.

Table 2. Representation of men and women in parliamentary parties of the Russian Federation

	Overall number	Men	Women	Proportion of women (%)
The State Duma (7 th convocation)	450	379	71	15,8
United Russia	343	280	63	18
Communist Party of Russia	42	39	3	7
Liberal Democratic Party of Russia	39	37	2	5
Just Russia	23	20	3	13
Not included in the faction	2	2	0	0

The gender imbalance in parliamentary party structures is due to the absence of gender issues in their political programs. Through qualitative content analysis, the relationship between gender-articulated appeals in the political programs of parliamentary parties and the number of women in parliament was revealed. The choice of semantics was due to the method of feminist discourse analysis by C. Bacchi (Bacchi 1999, 56). The author argues that the problem of gender asymmetry in power can be demonstrated by addressing a number of specific issues, like discrimination, sexual harassment, access to education, child care, etc. The problem of gender inequality and imbalance of power has never been considered by the Russian parties elected to the supreme legislative body [Table 3].

Table 3. Content analysis of the programs of the Russian parliamentary parties for the presence of gender-articulated issues

	Q1 (United Russia)	Q2 (Communist Party)	Q3 (LDPR)	Q4 (Just Russia)			%	
A1	-	-	-	-	0	0	0	0
A2	-	-	-	-	0		0	
B1	-	-	-	-	0		0	
B2	1	2	-	5	8	8	89	89
B3	-	-	-	-	0		0	
C1	-	-	-	-	0		0	
C2	-	-	-	1	1	1	11	11
C3	-	-	-	-	0		0	
	1	2	0	6	9		100	
		1	2				3	
A Category		Gender equality	Feminism				---	
B Category		Gender	Woman				Feminist	
C Category		Discrimination	Violence (prevention of violence), sexual abuse				Sexism	

The election program of United Russia party in the last elections of deputies contains a female theme only in the form of “motherhood and childhood” protection. In this document, women are considered as mothers only (United Russia election program 2016, 64-65). The importance of care for pregnant women is emphasized: the program includes measures to improve the health care during pregnancy (Ibid).

It is important to note that even in the early twentieth century, Russian political parties did not reduce the “women's issue” only to the protection of maternal functions. They demanded that women's civil and political rights be fully respected (Russian political parties 2001, 28, 58).

The Communist Party's program proposes "improving political work in ... women's organizations" in order to increase its political influence on social processes (CPRF program 2016). Russian communists in their political program do not raise the issues of motherhood and childhood.

The Liberal Democratic Party completely releases gender issues in its program, thus referring to parties that do not have gender-articulated appeals to voters.

The smallest party of the State Duma – Just Russia reveals the female question more fully, as compare with other parties. The party program pays great attention to the protection of women's labor rights. Fair Russians advocate for the creation of "the conditions under which women and people with family responsibilities can successfully combine work and education of children" (Just Russia program 2016, 26). Also, the political program of Just Russia is the only one that raises the issues of violence against women: "Proper attention should be paid to the prevention and investigation of acts of violence against women and punishment for them" (Ibid, 27).

Consequently, assessing party programs from the gender perspective, it should be noted that there is a close relationship between the numerical indicators of women in the legislature and the mainstreaming of gender issues in the main documents of the party. The LDPR, which is not putting their primary focus on gender issues, has the lowest percentage of female representation in the state Duma. United and Just Russia, mentioning only the "traditional" role of women, are gradually integrating women into the political process.

It can be assumed that political parties should ensure equal opportunities for women and men to develop the skills necessary for successful politicians. The main means of achieving this goal is to provide equal opportunities for both sexes to hold positions of responsibility at the party level and, as a consequence, in Parliament.

A large number of women in the civil service are accounted for by "specialists" and "support specialists" in various organizational and information matters. The structure of power must also be balanced: women must have a direct impact on different issues. Thereby, the problem of women's representation in politics is not their number in the state authorities, but the fact that they do not occupy any leading positions.

The formal nature of the involvement of women in politics is also confirmed by the statement that "female representatives are involved in Russian politics to meet the needs of the regime" (Johnson 2016). In times of crisis and change, women come to power to demonstrate democratic elections and fight corruption. According to Johnson, women act as "political cleaners", whose role is to cleanse politics of corruption (Ibid).

The low level of women's representation is also linked to the lack of prominent political parties supporting women's rights in the Russian legislature. "The Women of Russia" party, which emerged after the collapse of the USSR, "is no longer a force in Russian politics" and has not changed its political platform in ten years (Bukina 2015, 53).

Conclusion

To sum up, from the point of view of gender equality, the modern democratic society in Russia is formal, as there is only a formal commitment to the principles of gender equality. The combination of the above-mentioned reasons shows that neither the state nor the political parties are interested in promoting the principles of gender equality. All actions that take place in one way or another in the field of gender policy are done only when it is vital to demonstrate the development of democracy. Gender policy in Russia is not considered and implemented as part of democratic development. The political elite argues that the full implementation of the gender equality policy is impossible due to the prevailing social perceptions of the role of women. However, can a society be considered democratic if women are involved in politics only formally because it is some urgent necessity? In view of the facts mentioned - the answer is obvious - no, because "society cannot be considered democratic if women play only a passive role in politics (as voters), do not participate in the government, do not occupy leadership positions..." (Lahova 1996).

Nowadays the role of gender issues in Russia's democratization is the myth rather than the reality. However, in order to involve and further develop gender issues in the democratic development of Russia, it is essential to make a number of changes in the following areas:

- I. Practical implementation of gender equality policy. Actions and activities to involve women should not only be carried out to improve statistical indicators and in times of crisis for the country. The process of achieving gender equality must be gradual and continuous.
- II. Introduction of a party and / or parliamentary system of gender quotas. This system is one of the mechanisms for improving the gender balance in politics. A consequence of the lack of a functioning quota system in Russia is the low level of women's representation in the legislature, which limits overcoming the gender imbalance in the Parliament.
- III. Increase in the number of gender-articulated appeals to voters by parliamentary parties. The programs of the parliamentary parties of Russia practically do not contain gender issues. This affects the formation of gender asymmetry in political parties and, therefore, in the whole political sphere.
- IV. Respect for the principle of gender equality by political institutions. Structures interested in establishing and maintaining a high level of male and female political representation have a more gender-balanced environment in the public administration. The further development of gender equality policy depends directly on the activity of political institutions in its implementation. All of the above changes are likely to have a positive impact on the current gender situation in Russia and, in the future, on the democratic processes within the country.

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The Incompatibility of the Sharia Law and the Cairo Declaration on Human Rights in Islam with the European Convention on Human Rights

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ABSTRACT: The Resolution 2253 (2019) of the Parliamentary Assembly of the Council of Europe deals with the question if the Sharia law ("Islamic law") and the 1990 Cairo Declaration on Human Rights in Islam are compatible with the European Convention on Human Rights. This question was raised within the context of the endorsement of the Cairo Declaration by three member states of the Council of Europe, states that also ratified the European Convention upon their accession to the Council of Europe (Albania, Azerbaijan, Turkey). The same question is relevant also for Russia and Bosnia and Herzegovina, but also for Jordan, Kyrgyzstan, Morocco and Palestine, whose parliaments enjoy partner for democracy status with the Parliamentary Assembly of the Council of Europe. The European Court of Human Rights (the Grand Chamber) had already in 2003 the opportunity to give an answer to the above mentioned question: it "concurrs in the Chamber's view that Sharia is incompatible with the fundamental principles of democracy, as set forth in the Convention." Based on its own assessment and a comprehensive report adopted by the Committee on Legal Affairs and Human Rights, the Strasbourg Parliamentary Assembly concludes on the topic that "the various Islamic declarations on human rights..., while being more religious than legal, fail to reconcile Islam with universal human rights, especially insofar as they maintain the Sharia law as their unique source of reference. That includes the 1990 Cairo Declaration on Human Rights in Islam..." This study focuses on the analysis of the Assembly's report and resolution and also on country specific recommendations.

KEYWORDS: European Convention, Human Rights, Sharia, Cairo Declaration, incompatibility

Introduction

For many years, the issue of incompatibility between the Islamic Sharia Law and the international protection system for fundamental human rights, in the way it was consecrated by the United Nations or at a regional level – for example the European human rights protection system – became a heated debating subject both for international organizations and for the doctrine of specialized literature in the field of international law.

In this context, on a European level, in the last years we have seen for multiple times thorough examinations on the problem of incompatibility between the Islamic Sharia Law, the human rights protection system consecrated by the European Convention on Human Rights and the European Court of Human Rights, in the framework of the Council of Europe.

On January 27, 2016, several members of the Parliamentary Assembly of the Council of Europe initiated a Motion of Resolution which was meant to show their concern in regard with three aspects:

- The incompatibility of Sharia with the fundamental principles of democracy and the norms provided by the European Convention on Human Rights, observed by the European Court of Human Rights in the *Refah Partisi v. Turkey* decision.
- Three of the signatory states of the European Convention on Human Rights also signed the Cairo Declaration of Human Rights in Islam, adopted by the Islamic Conference Organization in 1990, this way enforcing, officially or unofficially, the Sharia Law – including those provisions which are in clear contradiction with the Convention, considering that the European Convention on Human Rights is a compulsory international instrument for all the part-taking states.

- Even though no member state of the Council of Europe officially adopted Sharia, the Islamic courts unofficially apply these rules, especially in the field of private law, at the request of the members of the Muslim communities from many member states. (Motion for a resolution, Doc. 13965, 2016)

Taking into account everything from above, the Assembly decided to investigate the compatibility of Sharia, including its unofficial application, with the European Convention on Human Rights and the implications of its signatory states in the case of adherence to the Convention. This is the content of the analysis we propose in the following.

Short considerations regarding the international mechanisms of human rights protection

70 years after the adoption of the Universal Declaration of Human Rights by the General Assembly of the UN on December 10th, 1948, it is still a long way to go until we will reach a guarantee of the real, universal and efficient protection of fundamental human rights and liberties, in spite of the fact that the international organizations continuously adopted clear positions on the specific problem of human rights.

The fundamental human rights and liberties are „the folding of a democratic society”, a paramount condition for the society’s evolution. These fundamental rights and liberties apply to all human beings as intrinsic rights, regardless of nationality, race, gender, faith or social status. In fact, they represent the „common judicial patrimony of the humanity, because they refer to universal values in international relations” (Corlăţean 2015, 7). Among these rights and liberties, the most important one to stand out is the right to life.

It is a world accepted truth, at least in a declaratory way, that human rights describe a fundamental dimension of all human beings which also apply to all human beings as intrinsic rights, regardless of their nationality, race, gender, beliefs or social statute.

The right to life is a supreme right, which notifies the prerogative of any human being to exist as such, compelling all individuals to respect it and abstain from any actions which could damage or harm this supreme social value. (Predescu 2006, 77)

If, historically speaking, the judicial philosophy provides that the right to life is a natural, inalienable right, in normative and political terms every democratic society regulates it for itself.

The current democratic European society cannot be conceived without a judicial system which protects the human rights in general. We highlight the guarantees which provide for the exercising of the right to life in Article 3 of the UDHR (1948) and in Article 6 of the International Covenant on Civil and Political Rights (1966), this right being, in a European perspective, the first substantial right regulated in Article 2 of the European Convention on Human Rights (1950). The provisions of Article 2 are completed by those stipulated in the 13th Protocol of the Convention which talks about the abolition of the capital punishment in any given situation. The importance of this right in the ensemble of all human rights and liberties is also shown by the position it holds in the composition of Title I – *Rights and Liberties*. This framework mentions „the sacralization of the right to life”, followed by an interdiction of torture and inhuman or degrading treatments (Art. 3), the interdiction of slavery and forced labour (Art. 4) and a non-retroactivity of the criminal law (Art. 7) (Lazăr 2009, 89) .

The European Court of Human Rights affirmed that the right to life is „one of the fundamental values of the democratic societies which compose the Council of Europe”, consecrating the preeminence of the right to life in the dispositions of the Convention and highlighting the „principle of the sacred character of life, protected by the Convention” (Sudre 2006, 213).

The contemporary European doctrine recognizes that not only the right to life but all rights and fundamental liberties belong to the common judicial patrimony of humanity. In fact it mentions that the individual, as a human being, is entitled to immanent, intrinsic rights (Corlăţean 2015, 7).

The realities of the current globalized world, though, show that even these guarantees, as solid as they may seem, are challenged by some international political or religious contexts. Sensitive

topics such as non-discrimination, freedom of thought and religion, could create changes in the judicial sphere or in the system of values of our European democratic society.

The right to life is just one of the many rights that are challenged or which encounter changes making their way less predictable. Therefore, the situation requires a democratic control of the judicial, political and religious developments which protect the life and the other human rights, and, above all, to find a midway between the defense of the fundamental right to life and the exercise of other fundamental rights, such as freedom of thought, religion and the right to non-discrimination. When it comes to the external manifestations of the religious beliefs or ideas of a person, these become social acts, and the state along with the European organizations are obligated to regulate these social behaviours in a positive sense, in order to limit and sanction all the deviations and abuses (Corlăţean 2018, 40).

As an answer to the appearance of regional systems of protecting human rights, the Islamic states adopted a few political and/or legal instruments on this matter as well. One of these instruments is the Cairo Declaration of Human Rights in Islam, adopted by the Islamic Conference Organization in 1990, which „wants to contribute to the humanity’s efforts to promote human rights, to protect the exploited and persecuted human being and to affirm his liberty and his right to a respectable life in accordance with the Islamic Sharia”. The Declaration, on one hand, recognizes the right to life in Article 2: „a) The life is a gift from God and the right to life guaranteed for all human beings. It is the duty of the individuals, societies and states to protect this right from any abuses; it is prohibited to kill anyone, except for the situation when there exists a reason mentioned by Sharia. c) The protection of life during the time given by God is a duty set by Sharia”; however, on the other hand, Sharia allows cruel, inhuman punishments and even the capital punishment by stoning or other degrading ways.

The Cairo Declaration on Human Rights in Islam is way more restrictive than the Universal Declaration of Human Rights. The freedom of expression is restricted by the case of a blasphemy when the capital punishment is allowed, and Muslims cannot deliberately change their religion. The Jihadists do not mention this Islamic Declaration, but they usually justify their crimes with Sharia – an imperative judicial system which involves political and social structures, which promotes exclusivity and aims to apply to everyone.

The Declaration mentions that „Islam is the religion of the pure human nature” (Art. 10) and that „all rights and liberties stipulated in this Declaration are subordinated to the Islamic Sharia” (Art. 24), which is „the only source of references for the explanation or clarification of any article of this declaration” (Art. 25) (OIC 1990).

In the book *Human Rights in Islam*, Sayyid Maududi (1976), an Islamist doctrinaire, claimed that Sharia guarantees the fundamental human rights in the best way possible, these rights arising exactly from its text (archive.org).

Even though some provisions of Sharia are compatible with the human rights or they offer even more rights (e.g. Article 7 of the Cairo Declaration which calls for a special protection for the human fetus, in comparison with the European Convention which does not), there still are many provisions which are not compatible with the European Convention on Human Rights (e.g. apostasy from Islam comes along with the capital punishment) (PACE, Resolution 2253, 2019).

The Cairo Declaration created many controversies, such as the concept of equality between genders, the right of marrying non-Muslims or the notable failure on freedom of thought and religion. The Cairo Declaration on Human Rights in Islam is the „product of the cultural Islamic matrix”, and Sharia is a judicial system established on the base of exclusively religious revelations, deducted from the Qur’an and Sunna, but which apply to all human beings (Cîteia 2019).

Even though it has a strong societal dimension, the Islamic ideology remained dominated by confessionalism and ethnicism. The fact that in Sharia the main source of right is the absolute supremacy of the Qur’an and, therefore, the absolute authority of the holy law derives directly from the Qur’an, is incompatible with the European Convention on Human Rights (Rus 1994, 14).

Is there any compatibility between Sharia and the European Convention of Human Rights?

Until December 18th, 2018, the European Court of Human Rights (ECHR) adopted a constant position, considering that Sharia is not compatible with democracy or the human rights. In 2003, the ECHR validated the dissolution of a Turkish Islamist party because it militated for the establishment of Sharia in Turkey (*Refah Partisi v. Turkey*). The Strasbourg Court ruled that Sharia is incompatible with the provisions given in the European Convention on Human Rights.

The European Court of Human Rights had the opportunity of ruling over the incompatibility of Sharia with the human rights provided by the Convention of 2003 in the case of *Refah Partisi v. Turkey*, saying that Turkey, as a signatory country, could legitimately stop the application of some religious rules which could alterate their democratic values. In this particular case, the decision of the Constitutional Court to dissolve the Socialist Party (*Refah Partisi*) because it promoted the introduction of Sharia was considered compatible with the Convention. The Court ruled that the Sharia Law is incompatible with the European Convention on Human Rights, but most obviously, this did not mean that there was an absolute incompatibility between the Convention and Islam, because the Court recognized that the „religion is one of the most important elements that compile the identity of the people and their view on life” (*Meritxell Mateu, Introductory Memorandum*).

By its decision of December 19th, 2018, the European Court of Human Rights highlighted its position in the sense that it did not *de plano* condemned Sharia anymore, but just some of its elements which were incompatible with the Court. The Court did not reiterate the principle conviction of Sharia, but especially its abusive application in the case *Molla Sari v. Greece*, and accepted the Islamic sacred law in the context of the *de jure* application of the common Greek law.

Based on the Sevres Treaty (1920) and Lausanne Treaty (1923), which regulated after the war that minorities in Greece and Turkey could live after their own rules, the Greek jurisdiction accepted Sharia to be enforced in cases of marriage, divorce and inheritance, to the whole Muslim community of Western Thrace, a Greek region.

This decision was appealed at the ECHR by a woman who was deprived, through the enforcement of Sharia, of the inheritance left by her husband in accordance with the common law.

The Greek justice voided the bequest, saying that it has to enforce the Sharia Law, which provided that the inheritance should belong to the sisters of the departed. The Court condemned the abusive enforcement of Sharia, but not the law itself, creating this way the conditions for the applicability of Sharia in Europe, without coming against the European Convention on Human Rights (*PACE, Resolution 2253, 2019*).

The European Court agreed that the state should respect the religious minorities without obligating their members to be part of them. When a state agrees to enforce Sharia on its territory, this has to be optional. The Court chose a liberal communitarian approach to reconcile the coexistence of diverse communities benefiting from judicial privileges in the same state.

However, ruling that Sharia is applicable in Europe, even in a limited way, the decision of the ECHR allows the political structures that want to apply it to pretend that they act in the name of the „protection of human rights.”

Even more than that, knowing the extent to which Islam could set up a closed society, questions raise in regard with the possibility of leaving this society, asking whether or not a simple consent is enough to guarantee freedom and life, taking into account that Sharia punishes apostasy with the death penalty.

The position of the Parliamentary Assembly of the Council of Europe in regard with Sharia

The change within the ECHR’s jurisprudence is a problem that generated critics and worries even inside of the Parliamentary Assembly of the Council of Europe (*PACE*), becoming a heated debating subject in Strasbourg, in spite of the fact that usually ECHR has a tolerant position towards the multitude of religious options including Islam.

On January 22nd, 2019, ECHR debated the resolution project which claimed that Sharia is not compatible with the European Convention on Human Rights. This resolution especially targets West Thracia, in Greece, which officially applies Sharia for its Muslim community, decision which

was condemned by PACE in 2010. This project also targets the existence and the functioning of the Muslim Sharia Councils in the UK, the fact that three member states of the Council of Europe (Turkey, Azerbaijan and Albania) signed the Cairo Declaration of Human Rights in Islam, and that other member states of the Council do enforce, officially or not, the Sharia Law (Greece, UK and Turkey). It should be added that, even though the Russian Federation and Bosnia and Herzegovina did not sign the Cairo Declaration, they are observing members of the Islamic Conference Organization and they also ratified the European Convention on Human Rights.

The resolution project was drafted after a complete report of the Committee on Legal Affairs and Human Rights, report which was named „The Compatibility of the Sharia Law with the European Convention on Human Rights: Could the member states of the Convention also be signatory states of the Cairo Declaration?“.

The European Center for Law and Justice asked the European parliamentarians to modify the resolution project in order to include the problem of the interdiction of blasphemy against Allah and Muhammad.

Through a series of resolutions – Resolution 1846 (2011) and its Recommendation 1987 (2011) regarding the fight against all forms of religious discrimination, along with Resolution 2076 (2015) regarding religious freedom and the cohabitation in a democratic society, and its Recommendation 1962 (2011) regarding the religious dimension of the intercultural dialogue – PACE already explicitly opposed to some provisions of Sharia. It especially stated that the state and the religion should remain separated and that „the states should ask the religious leaders to adopt a clear position favouring the priority of human rights, as provided by the European Convention on Human Rights“. Even more, a special resolution for the specific case of West Thracia was adopted. This resolution advised the Greeks to „eliminate the enforcement of Sharia which raises serious compatibility problems with the European Convention on Human Rights.“ PACE reaffirmed its commitment towards the principles opposed by the Sharia Law many times. (eclj.org)

The project of Resolution 2253, discussed on January 22nd, 2019, completed and brought clarifications to PACE's recommendations to the member states. The project's text especially denounced the fact that Sharia – including dispositions which are in a clear contradiction with the Convention – is applied, officially or unofficially, in many member states of the Council of Europe. The project addresses these states „to take into consideration the withdrawal from the Cairo Declaration“ and reiterates the necessity of abolishing Sharia in Greece and of the women in the UK Sharia Councils. In a more general manner, PACE reminds through this resolution that the freedom of religion does not imply the right of having a religious legal framework which would function at the same time with the common law and in contrast with the human rights. (PACE, AS/Jur (2018) 46, 3 January 2019, § 4.)

PACE reiterated the obligation of its member states to protect the freedom of thought, conscience and religion and considers that some provisions of the Cairo Declaration of Human Rights in Islam, being more religious than obligatory in judicial terms, fail in reconciling Islam with the universal human rights, considering that Sharia is the main source of law.

The project of Resolution 2253 also targeted the fact that Sharia comes against other provisions of the Conventions and of its additional protocols, including Article 2 (right to life), Article 3 (the ban on torture, and inhuman and degrading treatments), Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 10 (freedom of expression), Article 12 (right to marriage), Article 1 from the 9th Convention Protocol (protection of property) and Protocols 6 (ETS no. 114) and 13 (ETS no. 187) regarding the abolition of the death penalty. It works the same way for the divorce and inheritance procedures, which are clearly incompatible with the Convention (PACE, Resolution 2253, 2019).

The Committee on Legal Affairs and Human Rights considers that, even though the Cairo Declaration on Human Rights in Islam has no obligatory character judicially-wise, it has a symbolic value and a political meaning. Nevertheless, it fails in reconciling Islam with the universal human

rights, especially to the extent that it considers the Sharia Law as its only reference source and it does not recognize some specific rights.

The Committee considers that, in the case of human rights, there is no room for religious or cultural exceptions. The member states and the partners for democracy should promote religious pluralism, tolerance and equal rights to everyone. The Committee underlines that the European Convention on Human Rights is a compulsory international instrument for all states taking part in the process. This report also refers to the effective application of the Sharia principles in some member states and gives specific recommendations to each of these countries (Antonio Gutiérrez, Doc. 14787, 03 January 2019).

Conclusions

It is supposed that the process of rewriting the human rights judicial norms will continue, in a European perspective, tackling these changes and challenges. This might generate new and even bigger tensions between the European normative system and other cultural-religious models.

Europe is compelled to defend the European Convention on Human Rights in front of the Islamic human rights competition, which also pretend to be universally applicable. This position is affected by the political symbolism generated by the fact that the Cairo Declaration was adopted by a bigger number of states than those who ratified the European Convention of Human Rights.

Only a return to the European identity and its objective understanding of human rights, based on natural law, would also allow the liberation from universalism, this common life with vague features, as well as from Sharia. It is only then when the human rights will regain their universality.

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The Rule of Law, Democracy and Competing Paradigms of National Development: Locating the Nexus

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ABSTRACT: National development remains clearly elusive in some regions of the world. And democracy is frequently proposed as the catalyst of development for such locations. This presupposes that development was stunted by the dearth of democracy in these environments. At the heart of the undemocratic tendencies in the affected nation states is the phenomenon of strongmen in government. These genres of leaders usually detest the notion of the Rule of Law, as the very bedrock of development. They candidly although, project national interest as the superior paradigm of progress in these nations, giving rise to the scenario of competing models of national development for such places. This paper is a contribution to the reconciliation of the conflicting issues. Its premises are derived from the disciplines of law, political science and development studies. The work is framed on the experiences of the Nigerian nation state in West Africa.

KEYWORDS: rule of law, democracy, national interest, national development

Introduction

The 58th Annual National Conference of the Nigerian Bar Association (NBA) held at the nation's International Conference Centre in Abuja, Nigeria from the 26th to the 30th day of August 2018. The conference was inaugurated by the President of Nigeria, Muhammadu Buhari. Addressing the gathering, President Buhari declared that the Rule of Law must be subject to the supremacy of the nation's security and national interest. And according to the Nigerian leader, where national security and public interest were threatened or there seemed to be a likelihood of their being threatened, the individual rights of citizens must take second place to the greater good of society, as the Rule of Law must be subject to the primacy of the nation's security and national interest (Olagunju, 2018; Okakwu, 2018; Nnochiri, 2018).

In addition, general elections were conducted in Nigeria in the first quarter of 2019 (February-March, 2019). But on the 25th day of January, 2019, President Buhari suspended the Chief Justice of Nigeria (CJN), Walter Onnoghen, from office and swore in an acting CJN. Mr Buhari said he removed Mr Onnoghen based on an order of the Code of Conduct Tribunal, dated January 23, 2019. The suspended CJN had been on trial at this Tribunal for false declaration of assets on assumption of office, this being part of the statutory requirements for high profile positions in the Nigerian public sector (Tukur 2019). Noncompliance or false declaration is interpretable as corruption. But a section of the Nigerian public was of the view that the president acted illegally and unconstitutionally. They cite the provisions of Section 292 of the Nigerian Constitution, which guarantees security of tenure for judicial officers, especially the CJN. By this provision of the constitution, the CJN cannot be suspended or removed from office without the recommendation of the National Judicial Council (NJC) and the 2/3 concurring approval of the country's Senate (Ogunye 2019).

The other section hails the action of the President, contending that it is premised on a valid and subsisting order of the CCT, which has not been set aside, and which is incumbent on the President to enforce. This section of opinion believes that the action of the President addresses the substance of the allegation of corrupt practices against the CJN, the tackling of which is being frustrated by the resort to technicalities and procedural niceties of law, a

slavish adherence to the labyrinth of the due process of law, and treading of the laborious path of the rule of law (Ogunye 2019).

Ogunye's notion of treading the laborious path of the Rule of Law is underscored in this paper. So, treading the path of the Rule of Law is laborious? Probably amounting to the wasting of national time? The contending issues in this Nigerian scenario thus touch fundamentally upon the Rule of Law – the constitutionality of suspending the Chief Justice of the Federation, against the background of the President's earlier pronouncements on his willingness to disregard the Rule of Law. The critical issues touch upon democracy (electoral democracy), and the contestations and constitutionalism arising therefrom. Hence, Presidential elections in Nigeria are often finally concluded at the nation's Supreme Court, when the losers take their loss to the highest court in the country for arbitration. The Court has however never decided against the already declared winner. President Buhari had unsuccessfully taken his losses to this court in the past when he bided for the highest office in Nigeria. The opposition now accused the incumbent President Buhari, of not trusting the suspended CJN enough (to veer the ruling of the court in his favour) in the likely event of the 2019 presidential election-outcome, being contested at this highest judicial level.

But the most critical issue in today's Nigeria is national development (Lawal and Oluwatoyin 2011; Ekundayo 2015; Nzekwe 2018). Ekundayo (2015, 10) emphasizes:

A country is classified as developed if it is able to provide qualitative life for her citizenry. Unfortunately, Nigeria in the last fifty four years and above has been battling with the problems of development, in spite of huge human material and natural resources at her disposal.

National development has accordingly remained clearly elusive in Nigeria. But is democracy serving as the highly desired catalyst? Are the tendencies of the current Nigerian leaders akin to what strongmen in government do, particularly over their notions of the Rule of Law in a democracy? Despite their disagreeable interpretations of the Rule of Law, are these leaders still describable as patriots? Given the scenario of competing paradigms of national development entailed by the Rule of Law definitions of these leaders, and the opposition in this specific country, what is the way out? This paper thus arrives at the concept of location of the nexus among the research variables of the Rule of Law, democracy and national development. Some sections of the contribution are inevitably normative.

Conceptual Clarifications

The Rule of Law

UN (2008, 3) posits:

The rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.

Tamanaha (2007, 3) simply suggests that the rule of law, at its core, requires that government officials and citizens are bound by and act consistent with the law. And whereas this Tamanaha's position seems quite uncomplicated for theoretical elegance, it still stands for a common baseline that all of the other competing characterizations of the rule of law possess in common. Tamanaha (2012, 232) however

acknowledges that this universally popular notion is elusive—seemingly hard to pin down. As evidenced by the failure to arrive at a precise definition, the rule of law is a complicated theory (Yu and Guernsey 2009, 1). Waldron (2002, 140) states that both in its origin and in its application to early-modern and modern political institutions, the content and implications of the Rule of Law have been uncertain and controversial. Waldron also opines that the Rule-of-Law heritage is riddled with antinomies (Waldron 2002, 144). The Rule of Law accordingly begins to look like an essentially contested concept (Waldron, 2002; Gallie, 1956). Klein, Kiranda and Bafaki (2011, 20) further highlight:

The rule of law is the principle that the law should rule in the sense that it establishes a framework to which all conduct and behaviour conform, applying equally to all the members of society, be they private citizens or government officials. It means that no individual, whether president or private citizen, stands above the law.

But the foremost exponent of the concept / principle of the Rule of Law was A.V. Dicey who formulated it into a principle of the British constitution. Dicey did not create this phrase, but he brought it into currency, and was responsible for further elaborations on the principle. By the Rule of Law, Dicey refers to the absence of arbitrary or discretionary power on the part of government; 2) every man is subject to the ordinary law of the land administered by ordinary and usual tribunals; 3) the general principles of law, the common law rules of the constitution, in contradistinction to the civil law countries of Europe, are the consequences of rights of the subjects, not their source. To illuminate this difference, he contrasts the rule of law with the French idea of *droit administratif*, which he translates as administrative law (Michener 1982, xx). Dicey (1982, 115) also characterizes the Rule of Law as the predominance of the legal spirit. And in this paper, the Rule of Law implies supremacy of the law (Dicey 1982, 107).

Democracy

Democracy also has a plurality of definitions. It is fully an essentially contested concept. Gallie (1956) actually identified democracy as one of such fundamentally disputed conceptions. We find groups of people disagreeing about the proper use of these concepts – the essentially contested concepts. And when the different uses of these terms are examined, and the characteristic arguments in which they figure are tabled, it is soon seen that there is no one clearly definable general use of any of them which can be set up as the correct or standard use (Gallie 1956, 168). For Hollyer, Rosendorff and Vreeland (2011, 1193) therefore, democracy is a regime in which the executive and the legislature are both filled by “contested elections.” Where contestation implies that multiple parties compete, the incumbents have some probability of losing the elections, and all parties comply with the results.

Altundal (2015, 11-12) believes that the ideal definition of democracy will include horizontal accountability as an attribute, where horizontal accountability, on the other hand, is a check and balance mechanism across a network of relatively autonomous powers (Altundal, 2015; O’Donell, 1994). Dalton, Sin and Jou (2007, 153) identify freedom and liberty as central principles of democracy. They had earlier suggested that these three broad alternatives - institutions and procedures, freedom and liberties, and social benefits - constitute the primary substantive choices in defining democracy (Dalton, Sin and Jou 2007, 145).

According to Dahlberg, Axelsson and Holmberg (2017, 3) the concept of democracy can mean different things in different contexts; it can refer to an abstract ideal, a political procedure, a set of political outcomes, or a specific regime. And while some scholars emphasize the procedural and institutional aspects that need to be present in a democracy, most theoretical definitions of democracy also include references to the values and principles associated with democracy (Dahlberg, Axelsson and Holmberg 2017, 3). Democracy is a system of government that guarantees freedom and liberties for the people, where strong institutions and effective procedures lead to the provision of social benefits in abundance. Furthermore, democracy is of various variants, with the

important issue in each variation being the avoidance of the personification of government by strongmen or cabals. The people-factor accordingly constitutes the essence of democracy.

National Development

Defining national development entails an understanding of what is development? Development is perhaps the third in the series of the essentially contested concepts in this work. But the paper will not go into the embedded debates. Development is denoted in this study as freedom (Sen, 1999). In his notable contribution to development-theorization, Sen suggested that (economic) development implies a set of interrelated freedoms which include political freedoms (freedom from oppression, etc.), freedom of opportunity and freedom from abject poverty. To Sen therefore development can be seen as a process of expanding the real freedoms that people enjoy. Sen (1999, 3) further maintains that development requires the removal of major sources of unfreedom: poverty as well as tyranny, poor economic opportunities as well as systemic social deprivation, neglect of public facilities as well as intolerance or overactivity of repressive states. The reference to freedom of course does not imply license. Chambers (1997) had accordingly earlier proposed responsible well-being as a central concept for a development agenda. The generic availability of freedoms and responsible well-being, arising from the removal of major sources of unfreedoms in a nation state signifies national development.

Between the Rule of Law and Democracy

A central element of the rule of law in a democracy is equality before the law. The rule of law protects fundamental political, social, and economic rights and defends the citizen from the threats of tyranny and lawlessness. Democratic governments exercise authority by way of the law and are themselves subject to the law's constraints (Klein, Kiranda and Bafaki 2011, 20). In these Rule of Law-democracy matrixes, Ringhand (2004, 116) considers it important to reduce the power of judges to define democracy, thereby permitting greater and more varied experimentation with democratic schemes and creating more space for "we the people" to participate in defining the democracy in which we live. Schmitter and Karl (1991, 114) then argues:

...democracy does not consist of a single unique set of institutions. There are many types of democracy, and their diverse practices produce a similarly varied set of effects. The specific form democracy takes is contingent upon a county's socioeconomic conditions as well as its entrenched state structures and policy practices.

Will these contingencies upon a county's socioeconomic conditions as well as its entrenched state structures and policy practices warrant deviations from commonsensical notions of the Rule of Law, in order to achieve development? The expectation, since Nigeria's independence in 1960, argues Ordu (2019):

Has been that the giant of Africa would emerge as a dominant world player and join its global peers. Many had hoped that by the 21st century, reform-minded leaders would have built and sustained the institutions of governance, diversified the economy, created jobs for the burgeoning and youthful population, and reduced abject poverty. That expectation was spectacularly dashed.

According to Ordu (2019):

Today, of the 420 million people living in extreme poverty in Africa, 89 million live in Nigeria, almost half of the country's total population. Indeed, while poverty rates have declined across much of the continent, rapid population growth and low economic performance have conspired to wreak havoc on living standards, making Nigeria the country with largest share of extreme poverty. With projections as the world's third largest country by 2050, poverty in Nigeria will continue to worsen unless expeditious actions are taken.

In other words, Nigeria is in dire need of national development. There are immense socioeconomic challenges in the country as the entrenched state structures and policy practices remain ostensibly democratic. Will it be plausible to assume that a duly elected leader of this same country is engaging in anti-Rule of Law practices for the mere sake of strongmanism? The paper in the interim turns to the linkages between democracy and development.

Democracy and Development: What are the Linkages?

The net effect of democracy on growth (development) is uncertain (Barro 1999, 158). One classic example to support the point that democracy and development are not necessarily dependent on each other is China. Hence, despite being perceived as one of the least democratic nations on earth, this Asian state has in the last few decades managed to experience tremendous economic progress, at a speedier rate than most democratic countries in the world. Another indication that the link between democracy and development is weak is a growing situation of authoritarian states which increasingly show that they could be categorized as economically developed, while evading pressures to relax their political controls. Besides China therefore, East Asian countries such as India and Singapore belong to this category, as these countries manage to perform remarkably better than democracies in the Western divide of the world (Sikuka, 2017).

While the evidence in the scholarly literature is mixed and inconclusive, there is little disagreement that over time democracy and development are mutually reinforcing (Tommasoli 2013, 7). Lawal and Olukayode (2012) conclude that democracy is an ingredient of development. But what is the reality on ground in the Nigerian state? This country returned to the path of democracy in 1999 after long periods of military government interruptions in the peoples' developmental aspirations. Military intervention (leadership by strongmen) which led to occasional suspension of democracy was actually part of what stunted development in Nigeria. But it is already twenty years of democracy in post-military Nigeria. But in 2018 (after nineteen years of democracy) the giant of Africa was declared by the American-based Brookings Institution as the country with the highest number of people in extreme poverty and the de facto poverty capital of the world (Ugwu 2018).

According to the Brookings Institution report, Nigeria became the frontrunner in the global poverty race because as at the end of May 2018, the Institution's trajectories suggested that Nigeria had about 87 million people in extreme poverty, compared with India's 73 million. What was more, extreme poverty in Nigeria was growing by six people every minute, while poverty in India continued to fall (Ugwu 2018). Ugwu still highlights that the natural temptation was to gloss over this report because it relayed an obvious truth. The most basic fact about Nigeria being that it was a rich country choking her dirt-poor majority to death as the wretchedness of the Nigerian poor was ubiquitous and palpable. From Ugwu (2018) we further extract the following:

But there is something eye-catching about the report. It is the alarm that Nigeria is now without equal in terms of exponential poverty. The Brookings report highlights the niche of Nigeria's retrogressive progress. Africa's most populous nation is aggressively developing in the hardship department. She is effectively threatening to achieve universal poverty coverage! The ranking of Nigeria as the current world champion of extreme poverty is a backhanded compliment to a wealthy nation that has made her citizens guinea pigs of a home-grown formula for mass pauperization. We ought to stop and contemplate this feat of Nigeria beating the world in the democratization of poverty.

Finally from Ugwu (2018):

We should be shocked that our country trumped other nations in citizen impoverishment. It's appalling that our new claim to fame is our reproachful status as the poverty capital of the world. Nigeria's climb to the top of the poverty league epitomizes the paradox of a wealthy

nation living the contradiction of explosive poverty. Yet, it is more than that. Nigeria's current place on the poverty table reflects the country's earnest aspiration to be the foremost shithole of the earth. Nigeria boasts of no vision of a more dignified profile in the comity of nations. All Nigeria seems to pursue is to be an exemplary basket case.

The truth argues Adejumobi (2000, 6) is that there are missing links or gaps between democracy and development, which have to be addressed before the former, can achieve the latter. What are these missing gaps all about? These missing gaps are identified in this paper as bordering on leadership attitudes. The allusion here is to the type of leadership that focuses on people, in place of concentrating on laws and concepts, principles and procedures.

Locating the Nexus

The communiqué of the lawyers' conference in Abuja Nigeria, of course, completely rejected the presidential statement subordinating the Rule of Law to national interest (Olagunju, 2018). The lawyers restated that The Rule of Law was central to a democracy and any national interest concerns by the government (any government) must be managed within the perimeters and parameters of the Rule of Law. According to Dicey (1982, 120-121):

The Rule of Law has three meanings, or may be regarded from three different points of view. It means, in the first place, the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government... It means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary Law Courts... The "rule of law," lastly, may be used as a formula for expressing the fact that the constitution is not the source but the consequence of the rights of individuals as defined and enforced by the Courts ... thus the constitution is the result of the ordinary law of the land.

The focus of the Rule of Law (the essence of the rule of law) is therefore not on The Law but on the rights of individuals. In the viewpoints of Yu and Guernsey (2009, 1):

The Rule of Law does not have a precise definition, and its meaning can vary between different nations and legal traditions. But it can be understood generally as a legal-political regime under which the law restrains the government by promoting certain liberties and creating order and predictability regarding how a country functions. In the most basic sense, the Rule of Law is a system that attempts to protect the rights of citizens from arbitrary and abusive use of government power.

What really matters, explains Tamanaha (2012, 247) is the role law plays within the broader government and society on issues of importance to the people, whether the legal system on the whole, or in particular instances, is a positive force for the good, or not. The Rule of Law remains a multi-faceted concept (Berg and Desai 2013, 9). But among its facets is that it remains a precondition for national development. Berg and Desai (2013, 8) highlight that the Final Report of the UN Commission on Legal Empowerment of the Poor (2008) asserts that the Rule of Law is not a mere adornment to development, but a vital source of progress, as it creates an environment in which the full spectrum of human creativity can flourish, and prosperity can be built. The Rule of Law is accordingly for the enabling of human creativity.

On the other hand, despite all the goodies and treats of democracy, as a system of government, it has its own inadequacies. For instance, democracy is not a guarantee of economic and administrative efficiency in a country. Democracies also do not promise orderly conducts, governability, stability and consensual relations in a polity (Schmitter and Karl 1991). But citizen participation is paramount for the success of democracy. And if the decision making process

excludes the masses, one cannot talk of a democracy (Klein, Kiranda and Bafaki 2011, 11). Thus, even in its triteness, democracy remains the government of the people, by the people and for the people (Lincoln 1863). Also, democracies fall into two basic categories, i.e. direct/participatory and representative democracy (Klein, Kiranda and Bafaki 2011, 4). And each of these possibilities of democracy has the rights and interests of the citizens at its center. The linkage (the nexus) in the Rule of Law, democracy, and national development variables of this study is therefore, “service to the people.” Under this paradigm of development, law ceases to be conceived, interpreted and implemented in its abstractions but in the context of the freedom it portends for the citizens. The more of such freedoms that are available in a nation state, the more nationally developed the location is adjudged.

Conclusion(s)

The Rule of Law is actually propounded and propagated in the ultimate interest of the citizens, not for law in abstraction. Even in its triteness, democracy remains the government for the people. Development implies the abundance of freedom (as contrasted with license) for the people. National political leadership must accordingly focus on the people, and in so doing provide linkages among the Rule of Law, democracy and national development in their polities. Under the paper’s Nigerian illustration, national development remains elusive and democracy does not seem to be serving as the highly desired catalyst of development. Even at that, the Rule of Law perceptions and pronouncements of the current Nigerian leaders do not out rightly portray them more as strongmen in politics, than patriots. But the leaders must focus more on the people-factor in this Rule of Law, democracy and national development debate.

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Training and Education - Mission of Essence in the Development of the Individual and Society

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ABSTRACT: The essential role of education and training is to maintain and develop the intellectual and spiritual balance of the individual in a social environment, thus forming, in time, the appropriate personality and identity. The individual, in his turn, with his knowledge, skills and intellectual and spiritual wealth, accumulated over the years in educational institutions, as well as other education and training structures, will contribute in a decent and civilized mode to the welfare and development of their own society, in this way, giving a meaning to the spiritual, intellectual, as well as material content that brings satisfaction and benefit in personal and social life. Thus, education and training, based on a set of values that are regularly applied to the formation of the intellectual and moral traits of an individual, are those actions that have as objective the evolutionary improvement of the social environment, considered to be the best substance regulated by the individual. Thus, both man and the social environment are both a whole of the existence through which mutual exchange of values and actions takes place, which in the process of development equally necessitates frequent transformations in development.

KEYWORDS: mission, training, education, individual, social environment, development

Introduction

Being a strict necessity for both man and society, education evolves uninterruptedly through a series of transformations that, on their turn, bring into action important activities that develop the social environment and the individual in the same way. Through continuous training and education, as a priority commitment of a social environment, a condition is created that forces and imposes the individual to always be in direct contact with teaching, thus, through the process of learning the man is able to attain those decent experiences and things that, can bring spiritual and intellectual wealth throughout his entire live. Correspondingly, through the evolutionary processes, the man is the development model that produces the necessary changes both in the education system and in the social system of existence. As a social identity, the individual becomes that substance in existence which through culture and education endlessly favours the pursuit of actions in promoting evolutionary processes, thus creating favourable conditions in his own development and his own society. In this way, the communication and the qualitative correlation between man and society is formed, and education presents itself as an intermediary factor between them, having the function of realizing common beneficial actions and, respectively, of fostering the social development that would be based on economic and political structure. In its turn, the economic and political development of society as a priority attracts in itself the educational factor, a social component that determines the structuring of domains on actions and principles based on the scientific theories of pedagogy, as a consequence, realizing the necessary social product. Thus, the necessary product that man and the developing society need is created, and through these transformations the condition is realised that depends on the occurrence of phenomena that produce the diversity of the environmental factors through which the human being exists.

Based on the element of education, the relationship between man and society includes that active principle of existence through which the science of pedagogy, which is a function and role in the individual and social development, is fully based. Thus, pedagogy as a science in the formation and training of the man is the activity by which the human values of social character are reproduced and the field by which the processes of behaviour and communication between the individual and the society are valorised.

The analysis on training and education as mission of essence in the development of the individual and society

With the continuing process of teaching occurs the evolutionary action of permanent change of man in relation to the social environment. The teaching, being the system of theoretical and practical guidance in various fields, is also the system by which intellectual development is acquired and spiritual wisdom is enriched, thus creating a multilateral system of human culture. The notion of teaching merges both the processes of training, as part of the enlightenment and the formation of educated human personality for a society, and the processes of education, as part of ensuring a multilateral development of human with intellectual, moral, aesthetic and physical qualities with the beneficial purpose of contributing to the formation of a civilized society. Education, based on a set of values and measures that are applied regularly for training the intellectual and moral traits of a man, also represents those measures / actions that have as objective the evolving improvement of the social environment (considered as a commodity possessed by humans) which merges the human experiences of life and culture, influenced by all methods used for this purpose. Thus, both the man, and also his social environment are a whole of the existence through which mutual exchange of values and actions takes place, which in the process of development equally necessitates frequent transformations in development. In parallel, there is that cross between the actions that associate the proposed objectives with the desired results. By remodelling processes of human existence man, with his own society, was developing that model that produces those changes and in the education system.

Education, being a social activity, is expressing character through clear forms to convey to the rising generation those essential educational components which influence the development of human faculties systematically and consciously and, which, respectively, ensure that enlightenment of the society. Working in this mode, through education is formed also that social component that acts as an element of evolution thanks to which are influenced a whole variety of values necessary to the human development, and namely: spiritual, intellectual, material values. Through these values created by the man and via which them, in turn, formed the man, are constantly changing, in parallel through them was formed also the science of education on the basis of which also was and remains man with its intellect and culture.

Man, as a social individuality is that substance in human life that through culture and education favours forever to carry out actions as the absolute necessity of evolutionary processes, thus creating favourable conditions to designed events and phenomena of the human being and its society. Phenomena in turn is a category that is manifested in attitudes, behaviour, tendencies towards actions with material values, spiritual, intellectual, they are a direct link between human activities and social developing human society. Through this relationship, education is that function that sends the adequate communication in the correct formation of systems and subsystems from society necessary for the man and, respectively, sends the adequate communication in the formation of cohabitation qualitative correlation between society and the individual. Through communication and qualitative correlation between man and society, education is presented as an intermediary between these function factor to achieve beneficial joint action and to promote social development, based on economic and political structure. Namely, economic and political development of a society draws itself as a priority factor determining educational domains structuring actions based on scientific theories of pedagogy, as a result, producing product with the required effect. Indispensable, the product is created that is needed by the man in the development and prosperity of the society.

Those transformations are also manifested and in the diversity of conditions that depend on the occurrence of phenomena that are produced in all the environmental factors through which the human being exists. These, like others, are a direct connection with education, and can make causes by negatively influencing, and as positively the transformation of social life, provoking in the same time, adverse effects on human consciousness that supports the changing variety of its existence. The occurrence of such phenomena can carry out stimulating actions or of apathetic nature (inactive) that can cause misunderstandings in fulfilment of personal and social obligations. As a

result, those effects related to the quality of social education (eg, lower level) restrict the human behaviour through actions thus distorting the social product of development.

The relationship between man and society, founded by the element of education, includes that active principle of existence on which is based the science of pedagogy as role and function in development. *Pedagogy, science of education and training of human, is the activity that reproduces the human values with a social character and is the domain in which are valued the processes of behaviour and communication between the individual and society. Through the definition or the above phrase, is reflected the image of education, as a concept, achieved through the science of teaching and, directly, done by professors/ teachers with special training.* Education, being a strict necessity for the man, as well for society, evolves through a series of transformations permanently putting into action the exercise of those activities developing the social environment and the individual. As priority of society, education, educational and instructive process, is the human condition that requires man to be always in direct contact with teaching.

Only by learning, the man is able to reach those experiences and things that bring them spiritual and intellectual richness lifelong. In this regard, John Amos Comenius (Czech theologian, philosopher, educator) in a general reflection on improving human relations, notes that *"With regards to all humanity worldwide life is a school, from the beginning till the end of time, life for every human being is a school, from cradle to grave"*(Comenius. 1633). Thus, the key role of training and education is to maintain human and spiritual balance in a social environment, thus forming its personality and identity. The man, in his turn, with the knowledge, skills and intellectual and spiritual wealth accumulated over the years, is to contribute to the welfare of their society, in a way, giving meaning to the spiritual and material content that brings satisfaction in personal and social life. Consequently, through the direct and permanent contact of learning, the man can easier integrate into society, while using its personality through processes that contribute to human and social development. *Education, as a system, activates based on pedagogical science and vice versa and, respectively, pedagogical science activating through the education system, forms that function which, consequently, is rediscovering herself evolutionarily through contents and methodologies of continuous remodelling of the human being.* By position to contribute positively to human formation, education, as a value, must fulfil the mission to form the man with the ability to meet the needs imposed by society. As a result, the social life of man backed by actions and deeds form a whole that is the level of civilization, progress and development of a society. The level of development is reflected in the spiritual and material existence of the society, and man, with his the culture, is the core through which the educational process takes effect.

The effect of education, as a process, updates its existence by its liabilities covering all elements of a whole of social-human principles with the role of composing proper and continuous communication between man and society, based on the substance with which creates a genuine link of actual development. On this theme on the formation of man through the correlation between education and nature, the great Greek philosopher Democritus states: *"Nature and education are similar; for education transforms the man and, through this transformation, creates nature"*(Democritus). But the great Chinese philosopher Confucius said: *"Nature resembles us, education distinguishes us"*(Confucius).

To contribute substantially to form a society and an authentic personality, then the education will contribute in the most creative and effective way through all the factors and elements of the education system. *When establishing an authentic educational system, it is necessary to communicate with the educational policy, with its concept that correctly reflects the reality, with the environmental factors in which the individual reflects his action through the way of thinking and consciousness, with the state policy intersected by the art and science of pedagogy, with the actual presence of managerial and didactic staff in the life of the child - all in their turn being the core of social development through which the science of pedagogy is transmitted, and the man-child-student and his parents are part of the existence of all the processes realized through the unit of education, which is teaching, culture, intellect, evolution.* By appropriate correlation, education may find its place in a social environment, manifesting itself as a value via all forms of existence. By

educative and instructive forms, the educational system performs its action both within the school and outside it, keeping constantly in touch with organic internal and external factors of the social environment. Under the influence of internal and external factors are also included formal and non-formal forms on the basis of which lays the variety of institutions with school and extracurricular activities, extra didactic.

Consequently, all are available to the individual in order to learn and gain as much knowledge and skills in various fields. Formal education conducted within the school (from pre-school to the academic system) in relation to non-formal education achieved outside the classroom (and outside school), differs among them by the teaching content, methods and their characteristic forms. *Finally, formal education is that form of education and training that creates complete human personality in relation to the personality of society, and the non-formal education enables the man to enrich/ complete more and more his culture and intellect made through formal education, thus using its full identity of man in society. The educational unit, being the foundation of all forms of education and training, is also the value through which the human goes through to rediscover itself as a value-learning and particular individuality of a social environment. These values, in turn, forms the principle of existence which requires man to respect and appreciate the importance of social content and the importance of common development strategy.*

Following the ideas of Comenius we can confirm with certainty that education embraces the whole life of the human being, giving him wisdom and reason throughout its existence. By its functions, education expresses real presence in the development of human and social life and human faculty forms depending on the capabilities of the society. Capacity or human faculty expressed through moral and intellectual qualities is also, and its function that is performed in an organized manner to achieve a particular purpose. Human purpose, if it can be defined this way, is nothing more than the objective towards which the man is aiming to namely achieve a civilized existence in a civilized social environment. This correlation filtered through his own and social being requires the man to create the conditions for the existence of beneficial growing influence, stimulating as much the development of their own society. *The development of a society, which is based on the educational system and continuing education, expresses its true face only if is able to meet the requirements and satisfy the needs of the individual, that represents the totality of phenomena of economic, cultural and social nature. Through all these phenomena is identified the man with his skills and knowledge, conditioned by the educational processes.* The human being through education establishes the conditions that determine the occurrence or development of a phenomenon. The phenomenon, being a materialist dialectics category correlated to the essence, forms the essential processes in relation to their dependent nature of human existence. Processes, in turn, are manifested through action developed, having function and role in the established topic. Identically, the education manifests itself as a phenomenon and action, with the function and role in the development of the human being and the society.

So, through continuous training and education, as a priority commitment of a social environment, a condition is created that imposes the individual to always be in direct contact with teaching. Correspondingly, through the evolutionary processes, the man is the development model that produces the necessary changes both in the education system and in the social system of existence. As a social identity, the individual becomes that substance in existence which through culture and education endlessly favours the pursuit of actions in promoting evolutionary processes, thus creating favourable conditions in his own development and his own society. In this way, the communication and the qualitative correlation between man and society is formed, and education presents itself as an intermediary factor between them, having the function of realizing common beneficial actions and, respectively, of fostering the social development. As an argument, based on the educational element, the relationship between man and society forms the active principle of existence, and the pedagogy, as a science in the formation and training of the man, represent the activity by which the human values with social character are reproduced and, respectively, the action is developing by which the processes of behaviour between the individual and the society are valorised.

Conclusions

Therefore, the essential role of education and training is to maintain and develop the intellectual and spiritual balance of the individual in a social environment, thus forming, in time, the appropriate personality and identity. The individual, in his turn, with his knowledge, skills and intellectual and spiritual wealth, accumulated over the years in educational institutions, as well as other education and training structures, will contribute in a decent and civilized mode to the welfare and development of their own society, in this way, giving a meaning to the spiritual, intellectual, as well as material content that brings satisfaction and benefit in personal and social life. Thus, education and training, based on a set of values that are regularly applied to the formation of the intellectual and moral traits of an individual, are those actions that have as objective the evolutionary improvement of the social environment, considered to be the best substance regulated by the individual. Thus, both man and the social environment are both a whole of the existence through which mutual exchange of values and actions takes place, which in the process of development equally necessitates frequent transformations in development. Thus, education is a social activity that expresses its character through clear forms in order to convey to the growing generation those essential educational components that systematically and consciously influence the development of human faculties and, which, respectively, ensure the culture of the respective society. By activating in that way, education also forms the social component that acts as an element of evolution, influencing the whole range of values necessary for the developing person, namely: spiritual, intellectual, material values.

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Crouching Bear and Hidden Dragon: The Limitations in the Sino-Russian Alliance

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ABSTRACT: In the post-cold war era there has been a remarkable renewal and strengthening of Sino-Russian relations, especially from 2000 onwards. Moscow and Beijing started renewing and enhancing their ties in security, trade, as well as diplomatic issues more vigorously. The close cooperation between the two countries is evident however the partnership hasn't advanced to an anti-hegemonic opposition bloc despite the opportunities that arise. Russia and China are two rising powers with a great geopolitical weight in the international system and their partnership constitutes a constant topic of analysis. Sino-Russian co-operation takes place on many levels from energy supplies, joint military exercises, trade agreements, arms sales and the establishment of new multilateral institutions (such as the Sanghai organization, BRICS New Development Bank and the Asian Infrastructure Investment Bank, AIIB) to a broad consensus on issues in international relations. However, the two powers haven't formed an actual alliance that could fundamentally alter the distribution of power in the international system.

KEYWORDS: China, Russia, strategic partnership, arms sales, energy trade, cooperation

Introduction

Sino-Russian relation has been raised to one of the most important research areas in international relations attracting a lot attention from academics to policy-makers around the world. Russia and China's have intensified their cooperation in a number of areas raising worries on a possible change in the current international system dynamics and the prominent question is whether their partnership will pass the test of time and whether they will enter into a military-political alliance that can shift the global balance of power. "Political and economic rapprochement is taking place between Russia and China in a number of fields: energy, arms production, trade in national currencies and strategic projects in transport and supporting infrastructure" (Malle 2017, 136). Particularly their energy trade and military cooperation has been increased notably in the last two decades. Sino-Russian co-operation takes place on many levels from energy agreements, joint military exercises, arms sales and the establishment of new multilateral institutions (such as the Shanghai organization, BRICS New Development Bank and the Asian Infrastructure Investment Bank, AIIB) to a broad consensus on issues in international relations and support in international fora.

China and Russia share similar worldviews on the international system and domestic affairs. They both advocate for a multipolar world system with UN having a greater role, the principle of "non-interference in state sovereignty and freedom from 'western hegemony'" (Konings 2007, 341). Nonetheless, the relationship between Beijing and Moscow remains in flux prompting questions about the depth and the long term vitality of their co-operation but most importantly on the direction it will follow and particularly whether this combined effort will challenge USA hegemony.

There have been different categorizations of this particular partnership between China and Russia, it has been characterized as axis of convenience (Lo 2008), presidential pseudo alliance (Baev 2018) opportunistic (Weitz 2008) an illusion (Beaucamp,2015), strategic partners as stated in the Treaty of 2001, a limited, defensive, strategic partnership (Li 2007, 478), or an alliance in the making (Economist 1997, Allison 2018) while for Garnett "Sino-Russian behavior is a particularly clear example of a response to U.S. power that is hardly limited to these two states"(2001, 42). Nonetheless despite the conceptualization of the Sino-Russia relationship their rapprochement is

evident and it shows dissatisfaction with Western policies. “Both countries seek to offset US military superiority without engaging with American power directly (Shanghai cooperation organization) counterbalancing US interests in Central Asia. The two powers have institutionalized these norms within the Shanghai Cooperation Organization, which they use to counterbalance US interests in Central Asia” (Fergusson 2012, 197).

However, the two powers haven't formed an actual alliance that could fundamentally alter the distribution of power in the international system. The main research question of this paper is *Whether this partnership has been intensified throughout the years?* The intensity of this strategic partnership thought the last 18 years can provide us with an overall insight on developments, achievements and limitations. This paper will illuminate the key drivers of Sino-Russian strategic cooperation giving special attention points of friction and to asymmetries in the bilateral relationship posed by the structure of the international system itself.

The periods (are calculated according to the days of elections as per follow 26 March 2000, 12 March 2004, 2 March 2008, 4 March 2012 and 18 March 2018 (source: OSCE)) under which our analysis will be divided mark Vladimir Putin terms in power from his first presidential election from 2000 till 2004, the second presidential term from 2004 till 2008, the period of him acting as Prime Minister of Russia, maintaining his political dominance (Chivers 2008) from 2008 till 2012 and lastly its third presidential term from 2012 till 2018.

The areas of cooperation that will be included is economic activities focus mainly on trade specifically on energy, and on military arms sales and joint military exercises. A significant amount of literature has been devoted to Sino-Russian military cooperation however that does not sufficiently demonstrate how much and how consistently the military cooperation between these two countries has increased in the post-cold war period (Korolev 2018). The same is also attributed on the energy cooperation as the cornerstone of this bilateral relationship. Thus, most approach when examining the Sino-Russian partnership lacking a holistic approach on the areas the cooperation is developed, the period it is formed and its intensity from time to time.

This paper will attempt to provide an overall approach based on measurable indicators of cooperation to see the trends and the intensity of cooperation in periods and in particular how it was influenced by certain events, Ukraine, Crimea, Syria and the US-China trade war.

Historical background and partnership building

In the post-cold war era there has been a remarkable renewal and strengthening of Sino-Russian relations, especially from 2000 onwards. Moscow and Beijing started renewing and enhancing their ties in security, trade, as well as diplomatic issues more vigorously and despite their great differences in the cultural identity and temperament, the two countries share common borders longer than 4,000 km and one common past (Oznobishchev 2017).

China-Russia rapprochement is not a product of 2000's and the first approach “lies in the 1980s, as Soviet president Mikhail Gorbachev and Chinese premier Deng Xiaoping sought to overcome decades of ideological, military, and political mistrust and competition” (Garnett 2010, 41). Since Mikhail Gorbachev's visit to Beijing in 1989, Moscow's relations with China have grown continually stronger (Bellacqua 2010). The materialized development of the Sino-Russian strategic partnership dates back to 1996 when Yeltchin used the term on a joint Sino-Russian statement (Li 2007, 479). “The Russian-Chinese relationship has been strengthening since the signing of the ‘Treaty of Good neighborliness, Friendship and Co-operation’ in 2001” (Portyakov 2010, 2) and besides reaching an agreement on their common borders engaged in a series of common trade agreements and joints endeavors showcasing their will to create a multipolar world by limiting western interventions. For some authors one of the most dramatic diplomatic turnarounds in the past decade is the deepening of Sino-Russian strategic studies (Garnett 2001) that turns West's focus to the developments in the East.

Military cooperation

Military cooperation between China and Russia has been strengthened particularly after the resolution of the borders dispute in 2001 and overcoming the accusation Russia has made against China in 2003 that was attempting to replicate its arsenal technology. Since then “the two have held high-level discussions on international security, negotiated important security-related agreements, conducted joint military exercises, and perhaps most strikingly engaged in large-scale arms trade” (Scharwtz 2014, 1). “The evolution of the China-Russia military relationship toward a higher level of cooperation and coordination is evident in the three main areas of bilateral defense engagement: (1) military exercises, (2) military-technical cooperation, and (3) high-level military-to-military contacts” (Meick 2017, 5).

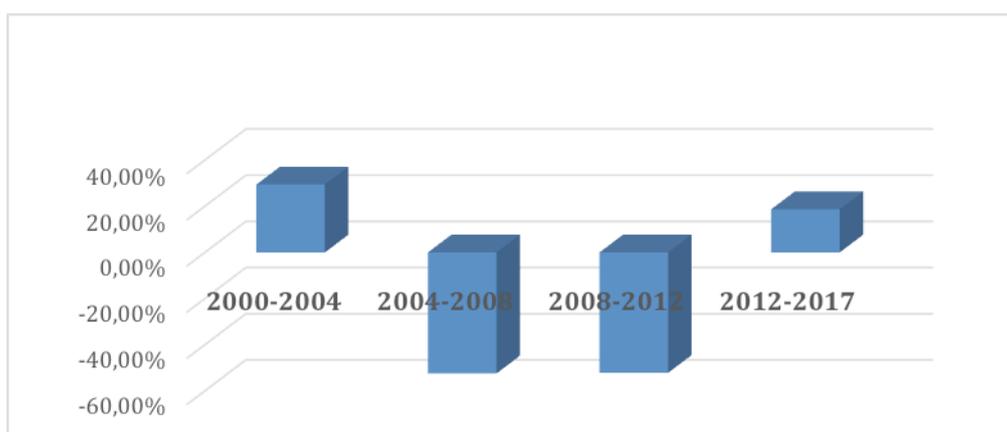
Arms sales is an important element of the Sino-Russian strategic partnership with China being the largest importer of Russian military equipment during 1999 to 2006 reaching nearly 2 billion USD per year from 1999-2005 (Weezerman 2017). Another important aspect that the two countries seem to strengthen their partnership is on joint military exercises ,which the use “to demonstrate their increasing military capabilities and the strength of China-Russia defense ties to the international community, particularly the United States and countries in the Asia Pacific” (Meick 2017, 6).

In the next tables there is depiction of the intensity of the bilateral arms sales trade between the two countries as divided in the distinct periods of analysis (see table 1, graph 1).

Table 1: Change in imports of weapons to China from Russia (in percentage per period)

Period	Imports to China from Russia
2000-2004	29,40%
2004-2008	-52,44%
2008-2012	-52,18%
2012-2017	18,65%
Total 2000 - 2017	-61,50%

Source: SIPRI



Graph 1: Change in imports to China from Russia (in percentage per period)

Source: SIPRI

According to the data provided the bilateral trade between the two countries seems to vary according to periods. The highest volume of which was employed in the first period of 2000 till 2004 with the next two periods present a negative relation with lower transactions that seems to balance again in the period between 2012 to 2017 but not reaching the level of the first period.

Despite of enhanced cooperation since 2000, the data don't depict an intensified cooperation but quite the opposite. The period of 2008 till 2012 includes the economic crisis which resulted in a reduction in arms sales transactions, the war in Georgia and the Syrian war that didn't seem to increase the bilateral transactions.

The last period between 2014 concedes with the annexation of Crimea, Ukraine crisis and the trade war between China and USA however despite these opportunities to forge a closer partnership or intensify their cooperation we identify a cooperative but not convergent trend (see table 1). Russia's sales to China have decreased considerably, to less than US\$ 1 billion per year (SIPRI, Weezerman, 2017, Arms Transfers Database 1991–2011). Among the reasons for this decrease is that Russia was reluctant to provide China with more advanced (Weitz 2008) and China sought more sophisticated technology than Russia was willing to offer (De Haas 2013).

The overall exports to China from Russia since 2000 and by the year 2017 have decreased showcasing the China's shift away from Russian exports was in part linked to its own growing manufacturing capabilities while also rapidly transitioned into a major arms exporter (Wezeman 2017).

Joint military exercises

China and Russia have been associated in a series of military exercises since 2002 either under the aegis of SCO or on a bilateral level. The joint China-Russia military exercises provide several benefits to both countries that contribute to their security partnership (Weitz, 2015) and "can be regarded as an extension and thermometer of the overall relationship between the two countries" (De Haas 2013, 44)

Table 2: Military exercises (including naval)

Period	SCO with the participation of other members	SCO Joint (only Russia China)	Bilateral
2000-2004	2	0	1
2004-2008	1	1	1
2008-2012	3	1	3
2012-2018	3	1	10

Source: Adapted from Weitz 2015; Yu Bin 2014; Scobell, Ratner, and Beckley 2014; Blasko 2010

Since 2000 the two countries have continued on a regular basis their exercises under SCO as well as having stepped up the level of their joint military exercises especially on bilateral level showing an intensification in security (see table 2) and a "shift from arms transfers to direct military cooperation" (Schwatz 2014). However, these exercises have a dual purpose first to indicate a close cooperation with one another on joint war games unity not only in their borders is Asia Pacific but also in other regions of the world (Mediterranean, Baltic) as well as has served to gain more insight into the military capabilities of the other 'partner' (De Haas 2013).

Energy

The energy cooperation between China and Russia is the most distinct feature of their strategic partnership and has gained vigorous support from both governments. "The trade between the two countries began somehow increasing in the early 2000s due to the warming of political relations associated with signing the Treaty of Good Neighborliness and Friendly Cooperation in 2001" (Nezhnikova, Papelniuk, Gorokhova 2018).

From 2008 to 2016 Russian and Chinese companies signed several major oil and gas agreements, a period in which Moscow reassessed China as a future energy consumer and lifted bilateral cooperation to a new level (Roseth 2017). Among the most prominent agreements in Sino-Russian bilateral energy cooperation is the ambitious agreement of the 21 May 2014 when "the China National Petroleum Corporation (CNPC), the country's largest integrated energy company,

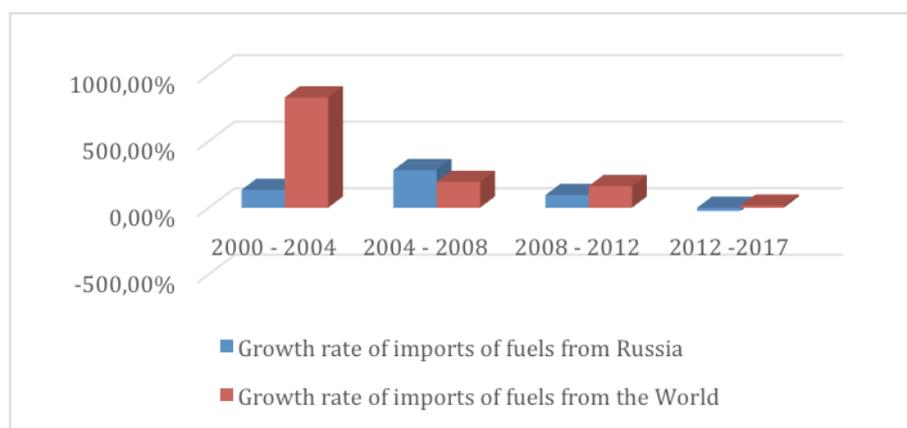
and Russian energy giant Gazprom, which controls Russia's export gas pipelines, finally signed a thirty-year, \$400 billion deal that will see as much as thirty-eight billion cubic meters (bcm) of Russian gas go to China annually from around 2018 to 2047" (Weitz 2014) that however hasn't started delivery yet.

Table 3: Growth rate of China's fuel imports from Russia-World

Year	Growth rate of imports of fuels from Russia	Growth rate of imports of fuels from the World
2000 - 2004	133,18%	828,08%
2004 - 2008	282,23%	194,19%
2008 - 2012	93,94%	161,81%
2012 -2017	-24,42%	14,68%

Source: UN Comtrade

The figures in table 2 show that the imports of fuels of China from Russia increased through the four periods analyzed, except between the years of 2012 and 2017, when there was a reduction of 24,42% in the imports of the product. However, despite the increase in imports of fuels between 2000 and 2017, the growth rate has diminished along the years, whose peak was reached from 2004 to 2008 (282,23%). Similarly, it is observed that China has imported fewer fuels from its worldwide trade partners, whereas the growth rate at the beginning of the last decade was 828%, the growth rate between 2012 and 2017 suffered a dramatic drop at the amount of 14,68% showing that energy ties between China and Russia are relatively modest and haven't reached an intensified level of cooperation (see table 3).



Graph 2: Growth rate of China's import fuels from Russia and the rest of World

Source: UN Comtrade

According to the periods under analysis we observe that the overall fuels imports to China were higher only during the period 2004-2008 surpassing imports for the rest parts of the world and also increased since the period 2000 to 2008 however the next two periods from 2008 to 2012 and from 2012 to 2018 indicate a lower import growth rate from both Russia and the world indicating not an intensified trade cooperation but a diminishing one (see table 3) considering as well that the 2014 gas deal hasn't been implemented yet. While at the same time Russia is looking for a fully diversified Asian energy market, extending beyond China to cover the wider Asia-Pacific region in Japan, South Korea and Southeast Asia (Lo and Rothman 2006).

Conclusion

Sino-Russian relations have been friendly and cooperative over the past 18 years as a result of common strategic interests, facilitating arms sales, join forces in joint military exercises a built a seemingly win-win bilateral trade network.

The areas of cooperation discussed above showcase a trend of influx in Sino-Russian relations. Despite deepened cooperation since 2000, China and Russia haven't reached a steady level of partnership that would indicate a military alliance however has far exceeded to be called an axis of convenience. The trend indicators of the analysis show a dual approach of both rapprochement and constraint that represents the countries policies towards one another.

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Sustainable Valorization of Vernacular Patrimony in European and American Space. Examples of Good Practices of Outdoor Museum Architecture

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ABSTRACT: *Lato sensu*, we will bring together Architecture, Education Sciences and Legal Sciences in developing a good practice guide on the remodeling of outdoor museums, which will attempt to sustainably value the vernacular heritage. Moreover, considering that architecture is a defining component of cultural heritage, we believe that a work which aims to redefine a key concept for the world heritage is a necessary initiative for the museum environment, also the valorization of cultural heritage. *Stricto sensu*, we intend to start from some studies and examples of good practices, relying on contemporary cases. In addition, we will start building a discourse on interdisciplinarity, because for an outdoor museum it is not needed only a curator, but a whole group of specialists who could bring new elements of attractive interactivity to a more diverse audience.

KEYWORDS: 21st century, architecture, cultural patrimony, interdisciplinarity, law

Introduction

Taking into account the thematic framing of the paper, we propose the creation of a novel study by which to use the existing interdependence between domains that at first sight do not seem to have a common ground.

Lato sensu, we will bring together Architecture, Education Sciences and Legal Sciences to develop a good practice guide on the remodeling of open-air museums, as well as the formation of a new open-air museum structure that will try to harness the vernacular heritage. Moreover, considering that architecture is a defining component of cultural heritage, we believe that a work that aims to redefine a key concept for world heritage through this area, is a necessary initiative for the museum environment, the complex valorization of the cultural heritage, both in a future internal context, as well as at an external level. In addition, we emphasize that architecture is one of the areas that could make real contributions to this issue.

Stricto sensu, we will emphasize the importance of certain key concepts such as: History of Art, Heritage, Museum Education etc. by conducting extensive case studies on our way to valorizing projects aimed at research into open-air museums in the European and American space alike. Of course, there are endeavors in this direction, but the foundation is not a solid one, given the lack of genuine interdependence between architecture, museology and the legal field. In addition, we will try to start building a discourse of interdisciplinarity, because for the realization of an open-air museum it is not only a museum designer, but a whole team of scenographers, architects, craftsmen and so on. In addition, besides encouraging the construction of authentic and specific edifices of certain periods of history, we consider it necessary to include certain elements, for example the gastronomic component, which would only bring new and new elements of interactivity appealing to a wide audience.

Of course, there are many studies on the value of museums in the open air, but a study covering both architecture, legal and education issues would make a good contribution, representing seeds for a fruitful future in this field.

Therefore, each part of the paper will focus on a particular issue, so it is difficult for us to recognize the contribution of certain authors, in this case, of some fundamental works on which we will conduct certain research directions. However, we will try to conduct a fair analysis and corroboration of all the sources and resources that have emerged during the research to bring a more objective view on the topic chosen for research. Moreover, we consider not only an analysis of the

sources already existing in the literature, but also a more active interaction with people from different fields that could help to complete the present study.

Resources

We believe that such a study may be based on some working tools, such as:

- Questionnaires
- Interviews
- Workshops
- Temporary exhibitions
- Case studies etc.

By doing a fair analysis of the sources, we can say that most of the papers reviewed are based on new visions of understanding some key concepts for this paper, such as the idea of contemporaryity, education, exposure etc.

Choosing the basics was not at all random, but essentially based on the interdependence of the chosen subject and their content. Basically, the sources, whether primary or secondary, have as substance the significance of the theme, as well as the right endeavor to achieve new directions in the exposure types specific to the open air museum.

As far as the research methodology is concerned, we propose to use a suite of resources that help the presentation of a complete picture on the realization of a new type of exposure. Moreover, we want through the study visits, interviews and questionnaires to find both, the needs of the public and the various opinions of specialists from different fields that could make a real contribution to redefining the chosen concept. In addition, we support *ab initio*, the collaboration between people with different visions.

New items and originality

Creating a new vision on the architecture concept of the open air museum, the directions and trends of contemporary museum education in the European and American space, the creation of new working methods for the permanent and temporary exhibitions of museums, in this case of open-air museums. Practically, we will try not only to redefine this concept by rebuilding some sections of existing museums but we will try to set up, with architects and other specialists, the formation of a new pattern of an open-air museum. In other words, we will try to bring new valences to this type of exposure by forming a study based on the interdependence of more or less auxiliary domains.

The basis for these elements will be both the resources mentioned above and the literature. Moreover, if for the legal domain we are going to use the legislation and doctrine, both internally and internationally, for the education sciences we will generally point to specialized studies based on alternative pedagogies, such as Waldorf pedagogy (Waldorf Federation of Romania 2010).

Another author who has very well defined the term of contemporaryity is Boris Groys, realizing an interdependence between philosophy, art history and psychology.

Also, we can not deny Dr. Howard Gardner's contribution, which has made important contributions in the field of education and psychology, by developing a theory of multiple intelligences that supports the existence of many types of intelligence present for all people.

As for the directions and tendencies in museology, we could mention important authors, such as: Ioan Opreș, Eva Mârza, Radu Florescu, Florentina Nițu, Corina Nicolescu, Claudia Cleja, Timothy Ambrose, Kenneth Hudson etc. (Nițu 2005).

Generally, the present work proposes, in a first working hypothesis, to achieve a fair understanding of the public's view of cultural events in the country, especially with the term museum, and this will, initially, be done using a questionnaire.

In the following, we have proposed that, on the basis of some research, we should conceive the plan of an unprecedented exhibition. Also, we are trying to create series of atypical temporary exhibitions (Manega 2010).

Distribution in time of an open-air museum through the point of view of two visions

In the first stage, we will focus on documentation. Thus, we will analyze the written sources and we will also make field research, both on the territory of certain European states and on some territories in the American space.

If we try to propose a synthesis of case studies on the directions and trends in contemporary museology, we notice that most of the attempts either become replicas of global exposure exercises or remain anchored in the old methods of exposure specific to a rigid speech.

Regarding the development of directions and trends in contemporary museology, we can see a fair change in the discourse, in the sense that most types of exposure address all the senses we are endowed with. In fact, a complete museum will consider, in addition to classical - virtual speech, also objects that invite the viewer to contemplate by other methods that stir up, for example, the olfactory sense. Although these types of exposure are not found in all museums in Romania, we have the full confidence that in the near future they will find the right resources for making a complete speech, that targets not only a certain audience, that wishes to bring the viewer by all means existing, to a fair and clear understanding.

Of course, there are a lot of typical examples of interactive museums that are mostly found in contemporary times, thanks to the rigorous efforts that have been put into practice over time and have contributed through examples of authentic practices, both at European and American level (Museosophia 2014).

Taking into account, as a case study in the European space, regarding the territory of Romania, we can say that, gradually, an improvement of the exposure process is attempted. Moreover, one can observe the desire to equate, to a certain extent, the exposure exercises made in other states through various methods of interactivity, elements, of course, with a novelty character for us.

So, despite the perceptible discrepancy between exposures in Romania and other countries, we can see some successes.

Of course, **stage II** consists of centralizing the documentation and use of certain resources (interviews, questionnaires, study visits, etc.) applied on both territories.

We believe that before you start building a concept, project, exhibition, temporary or permanent, it is fundamental that in a certain period of time you can find your inner and outer resources in truly discovering the needs of the audience you want to address to. In this sense, we intend to carry out a research project at the municipal level, initially, so that we can understand the needs of young people.

For example, the questionnaire is a first step towards awareness of certain impediments regarding young people visiting exhibitions. At first glance, we can see that in the vision of young people of all ages, the museum is a concrete, well-defined space where time stays on the spot, like an hourglass, in order to represent a formal or less formal speech idea. Basically, this questionnaire is the first step in starting an initiative in rediscovery of the museum and, implicitly, of permanent and temporary exhibitions in Romania.

The third stage will consist of analyzing the results, as well as interpreting them. Furthermore, we will draw some guidelines on the importance of architecture and, implicitly, of architects in complex museum activities, and **finally** we can draw a series of conclusions and, of course, lender ferenda proposals.

For an exhibition, whether permanent or temporary, to bring a coherent message decipherable to the public, we believe that it takes a whole team and not just a museographer to assign all of its tasks (Groys 2010). Of course, it is a commendable thing, but for a concept to be perfect, more visions are needed. So, through this study, we want to bring to the forefront the importance of other actors in the process of creating an exhibition. For example, for an open-air museum, the involvement of an architect, a craftsman and even a set designer is fundamental (George 2015).

Perhaps just a research of different fields at first glance would help a museographer/curator to make a coherent and clear discourse. For example, he could work with educators and psychologists to help him understand certain needs or priorities in the life of any young person, or with an

architect and a set designer to bring an authentic atmosphere that supports the exhibition concept. Practically, this may be a first step towards a successful exhibition speech that would get easier to the heart of young people.

A simple concept of a permanent or temporary exhibition can reach the general public only through a fair attempt to understand the latter, because each experience, each concept, each exhibit has an identity, and each visitor can identify himself more or less with it. Actually, as an actor is also the exhibit, and the exhibition discourse is the script if you want, while the curator is like the director.

Therefore, the role of a curator is to understand the one he is addressing, to find the way to express the message as authentic as he can, and at the same time as easily perceived by the latter. Moreover, it is essential that every curator puts the exhibit in the spotlight, so that he unfolds completely, freely, in front of the viewer.

Moreover, perhaps a director has more courage than a curator, to display controversial themes, up-to-date themes in a more authentic way, and this message can be more easily perceived by a young man than a loaded exhibition with elements that in many young people's vision are of the past, the field of history that, although deserving of all our attention, is lost in the past, a past that may sometimes merge with the present and the future. However, in most cases, the museum is a place where you often go in an organized setting and not at all on your own initiative. Therefore, one of the aims of this work is the formation of activities that make up a static museum, a museum of all, a living museum that through its temporary exhibitions creates workshops, practically extensions, of the chosen concept.

The mobility of people to cross the threshold of museums is quite small on our territory, but we hope that, with the changes that have occurred, people will turn their attention to exhibitions (Steiner 1996).

If we look more closely at the types of exposure that unfolds abroad, we can observe that the exhibition discourse seizes new and new nuances. Moreover, the museum captures new and new definitions for the people and becomes, practically, a place where people halt even for a few moments in their free time with openness, enthusiasm and pleasure. As a matter of fact, like our malls, exhibitions constantly attract people from outside, people of various ages who have not lost their thirst for knowledge. In addition, the museum for them is not a space forgotten by the authorities it is a living space that invites everyone to reflection, to search, to self-knowledge.

If we were to compare the speeches of museums in Romania with those from outside the border, we would notice a huge discrepancy. Moreover, the public in Romania is tempted and often warned that they must keep their distance from the exposed objects.

We all know the warnings that are, of course, also found abroad, and that urge us to keep the distance and not touch the exhibits. This first exhortation, which is rather a warning in the true sense of the word, makes the visitor a simple child to whom Freedom is restricted and which is controlled in one sense or another by an authority.

Sustainable valorization of vernacular patrimony in European space and American space

Lato sensu, in order to speak about the patrimony in this case, we must bear in mind that at European level there are a number of documents that help this area, but their provisions are applied according to the specificity of each state. For example, in order to talk about sustainable values in the Romanian space, it is necessary to take into account the fact that vulnerability finds its genesis in the depletion of resources, focusing on their preservation, and a key in this sense consists in a good merge of the practical and the legal domain. Moreover, we need to mention some normative acts with a vital role in this area of interest:

- *Decision no. 230 of 4 March 2003 on the delimitation of biosphere reserves, national parks and natural parks and the constitution of their administrations*
- *Law no. 5 of 6 March 2000 on the approval of the National Territory Planning Plan - Section III - Protected Areas*

- *Law no. 123 of 30 May 2017 for amending and completing the Law no. 182/2000 on the protection of the national mobile cultural heritage*
- *Order of the Minister of Culture and Religious Affairs no. 2185/2007 for the approval of the Norms for classification of museums and public collections etc.*

Stricto sensu, norms and doctrines weave with jurisprudence, but in this case we appeal not only to court cases, but to examples of good practice in the field of museography. In addition, we will in the future attempt to analyze the application of norms in open-air museums in Romania, as well as to draft various proposals of the law *ferenda* in order to complete the currently inadequately enacted norms.

În comparație cu legislația din spațiul european, pe teritoriul american se pot observa unele practici mult mai diferite, însă nu putem recunoaște că de multe ori ne lăsăm inspirați reciproc.

Compared to European space legislation, some more different practices can be seen in US territory, but we can not recognize that we often leave each other to get inspired by the other.

However, the American vernacular heritage is in a continuous metamorphosis, a metamorphosis that extends externally, tending to become, through examples of good practice, a real landmark for a multitude of factors involved internationally.

Conclusion

Therefore, looking at the elements of vulnerability and identity on the territory of two beautiful worlds will be a fundamental element of the chosen theme, although it is a real challenge, we consider that this step is just an extension of research that has its own thirst of knowledge.

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Citizenship Education for the Blossoming of Participatory Democracy

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ABSTRACT: This research had the objective of exploring the impact of education in citizens' competences, whilst using the Participatory-Action-Research (PAR) methodology—created by the sociologist Orlando Fals Borda (1970)—on leaders that work with teens in impoverished and marginalized communities. The study explores the impact of the training on five NGO's in citizens competences for the empowerment and promulgation of participatory democracy. We expected to scrutinize PAR's methodology and the training in citizens competences with content and other methodologies that transform the research practices and encourage citizen's empowerment. By practicing the seven phases of PAR, we designed surveys, conducted interviews and visited five NGO's that offer educative services in Puerto Rico to identify their needs. We facilitated workshops on cognitive, emotional, social and communicative competences—according to their felt-expressed needs. Afterwards, we designed and implemented evaluations using participatory methodologies. The results indicate they incremented in 75 percent their consciousness, knowledge and strengthened their ability to make individual and collective decisions. It led them to a sense of empowerment as citizens and leaders that can play a role in the development of democratic practices in their NGO's, their community and the public policy education of their country. They recognize, in over 80 percent of their responses, the need of incorporating participatory methodologies as well as citizens' competences to their programs and curriculums. Also, they suggested the board of directors should be trained on these methodologies and contents, in order to transform the NGO's that serve disadvantaged communities.

KEYWORDS: PAR, citizens competences, participatory democracy, empowerment

Introduction

Puerto Rico is a colony of the United States, an indebted country with high levels of social and economic inequality (Instituto de Estadísticas 2015). Young adults between the ages of 18 to 34 years in Puerto Rico are one of the more vulnerable groups in the country that reflect high indicators of poverty, social insecurity and marginalization (SOMOSElAHORA 2016). This situation responds to high levels of social and economic disparity while being a product of government corruption, bankruptcy and the political-colonial status of the country.

The Fundación Agenda Ciudadana (FAC) is an NGO dedicated to the social transformation of Puerto Rico reinforcing the compromise of all sectors of society. This social transformation is based in a common vision of a shared future. The core values of this future are: sustainable development, investment in education, social inclusion and the strengthening of alliances (Agenda Ciudadana 2012; 2016). All these values help formalize and offer follow-up to proposals that academic, corporate, governmental sectors and citizens initiated and worked for the past 12 years.

FAC looks to improve citizen, public, private and NGO power before the partisan tribalism. It strives to take on a leading role in the creation of a new Puerto Rico of social and economic prosperity; generator of ideas, public policy and consultancy. It promotes the development of curriculums and educational programs in citizens competences. All from alternative and creative methodologies for all populations.

The University of Puerto Rico in Humacao (UPRH), through its Bachelor's in Social Sciences in the methodology of Participatory-Action-Research (PAR), provides tools to assure the compromise and accountability of all the sectors that commit to attend felt-expressed needs. It identifies research areas that are necessary and uses its results to understand and solve problems. Simultaneously, it has been reforming in a repository of research and successful practices that come from different and alternative learnings.

The convention that has been developed between Fundación Agenda Ciudadana (FAC) and the University of Puerto Rico in Humacao (UPRH) suppose the integration of learnings, methodologies, relations and strategies that accomplish transformations in the practices, visions and values of the groups and institutions with whom they work. They educate in an alternative manner for different and creative results that facilitate new forms for the empowerment of the country.

In order to attend this purposely hidden need in Puerto Rico and acknowledging the potential of this group to rebuild the country through the exercise and promotion of the participatory democracy, the FAC and the UPRH initiated a Participatory-Action-Research (PAR) project with the following objectives:

1. Research citizens competences (cognitive, emotional, communicative and social) that promote a bigger activation and mobilization from community organizations that serve children and young adults with high levels of exclusion and poverty.
2. Identify and document practices that community organizations realize to facilitate citizen education as a way to promote for a democracy that's more participative and redistributive.

Some of the questions that guided this project were:

1. How citizens competences promote the activation and mobilization of organizations/institutions that work with populations with high levels of exclusion and poverty? How can we raise awareness or help on the development of conditions for social change?
2. Which practices and competences have developed a more democratic and participative character on organizations that are being educated on these skills?

Consequently, this paper pretends to summarize the findings and share some suggestions that we believe can contribute to the discussion and reflection in educational centers for the promotion of participatory methodologies in the development of community leaders and young adults that suffer marginalization and inequality in Puerto Rico and internationally.

Framework and theory

We recognize and promote citizen participation as one of the main vehicles for social change and individual and collective empowerment. We can define empowerment as the process by which individuals, groups, organizations and communities develop a sense of control over their lives, allowing them to act efficiently in the public sphere, and also allowing them to access resources and promote changes in their common contexts (Ortiz-Torres 1999, 52). Through effective citizen participation they are trying to transform the traditional representative democracies in participatory democracies in which citizens have a greater role in public administration.

We agree with Castells (1982) and Velázquez (1986) in that participation is a social process of inclusion of social stakeholders as to directly or indirectly influence the development of society and its systems. Sanchez (2000) suggests three or four inclusion criteria or indicators in the different stages in which citizens are involved in the decision-making of its affairs or matters pertaining to the social group or community. These range from: the power to influence without specifying at what level; attend meetings or assume leadership positions; or intervene in decision-making, to be part of the planning, management, and use of resources. Later it presents other indicators such as participatory design (Stringer 1982), educational interaction (Lawrence 1982) and the emphasis on the values of autonomy, cooperation, and consistency that require conditions such as the social constructs of designing political participation; and receiving these designs are moulded in an interpersonal relationship (participatory design), who has a learning experience for all sectors involved (educational interaction), and that this interaction between professionals, government officials, and others, allow the communities to hold their positions and recommendations of their needs in a spirit of respect and cooperation, while allowing control by users to make decisions without dissent or be subjected to reprisals such as exclusion.

These authors start from the basic tenets of what a democratic system is, to the point of describing another level of democratic system such as the Participatory Democracy. A system that promotes participatory democracy is defined as such if it meets the following criteria: universality, participation, truthful information, and access to and control of resources (Muñoz 2004) considered social or common property to all in a society. These conditions and levels of implementation determine the levels of participatory democracy that it exhibits. We shall define each.

Universality means the ability of every individual to have access to rights guaranteed by the community simply by being considered a rational person. (The impersonality that Max Weber refers to). Thus, the universality of the rights of citizens entails some obligations to ensure that they are not subject to the whims or the desires of their government officials (Muñoz 2004). If some groups are legitimated over others to be entitled to participate because they have some education, are of a particular social class, or occupy a particular position in the social work sphere, politics, or the principle of universality, they are neutralized.

By participation (from the postulates of democracy in general) we understand not only being in an electoral register but the opposite; collaborating in the democratic control of those institutions in which effective decision-making (Muñoz 2004) is made. Participation, therefore, has to be understood not only as a political process, but also economic, social and cultural processes are essential elements in the intervention of citizens in the administration of society. So, for example, participation in public hearings on government decisions is one of many possible participation exercises.

Truthful information, Muñoz (2004) explains is "information as to the explanation and clarification of causes. It requires the absolute defence of the principle of autonomy of conscience of citizens. Consequently, the search for a society in which collective relations are established as free and equal ensure that the principle of autonomy protects the capacity of action, reflective thinking, and awareness of individuals." (pg. 7). There are several conditions involving this principle including: that citizens have the information, the information is complete and accessible, and for citizens to maintain their independence of criteria assumed positions about them. If one of these conditions is not present, the others are neutralized. According to the author, control of use and distribution of resources is concerned with, "the management of the means for a physical and mental development of the community as a whole" (pg.7) and this is nothing else than enabling users or members of a society to have the right to share decision-making about resource management of that company or to be those who administer it.

Those are the basic conditions of what we call strong democracy or deliberative/participatory democracy (Barber 1998; Muñoz 2004). It is one in which citizens have the capacity to act, receiving truthful information and, at the same time, harness their areas of cooperation and social collaboration. Strong democracy is based on participation in a dynamic community solving problems, which creates public purposes, where none existed before, through its own activity and its own existence as a focal point in the search for mutual solutions. In such communities, the authors state, public purposes are either not extrapolating from absolute or are discovered hidden in a pre-existing consensus. They are literally forged by the act of public participation under the joint deliberation, the joint action, and the effect of this action and this deliberation, which change shape and direction when subjected to these deliberative processes.

This Participatory Democracy also meets requirements that further this practice. Barber (1998) highlights the following: (1) distribution of power through participatory policy and decision making at all levels in which you can participate (planning, management, resource management, monitoring, etc.); (2) political action understood as a corrective to the inequality; that is, that the state can mediate and manage actions to ensure the inclusion of the differences or take action if they are expressed and affect the participation of individuals or groups; (3) ensuring consensus through public deliberation. Here it is argued that there are no solutions or ideas that include or guarantee the rights and needs of all, that social problems are complex, so it should be kept in open dialogue, critical to the positions and decisions taken between everybody.

Effective participation enables the development of individual skills; promotes the organization and activation of individuals, groups, and communities; and facilitates the transformation of shared contexts by those involved in the participatory process (Ortiz-Torres 1999; Lara 2007; Rappaport 1981). As proposed in the definition presented, the changes that are promoted through participatory processes should eventually allow greater access to resources of all kinds.

Methodology

This project had the Participatory-Action-Research (PAR) frame—one that is epistemological and methodological. This methodology allows to have a proximity to the comprehension and intervention of complex phenomena (Morin 2004), through a dialectic process of research-action-reflection (Fals Borda 1978). All its phases occur with the active participation of the involved subjects in a subject-subject relationship between researchers and those who are being researched (Fals Borda, 1981). In this relationship, the public issue to be addressed is defined, new learnings are developed and strategies for its transformation are agreed on (Fals Borda, 1978; Montero 2005).

In PAR, the active and direct participation of the implicated groups is promoted—this facilitates a subject-subject relationship and disrupts the subject-object relationship proposed by the traditional research (Fals Borda, 1987). This methodology validates popular learnings along with academic learnings and allows the creation of a transdisciplinary approach towards complex phenomena that interfere in society (Morin 1990; Jara 2015; Lara 2007). Simultaneously, it eases the empowerment process that results in the increase of participation and social action levels of citizenship (Montero 2005; Sánchez 2000). The project created a transectorial team of researchers to profile and capacity building needs of five NGOs that work with young adults—who have abandoned school and live in marginalized communities—from an alternative education model. These five NGOs promote education as a way for these young adults to complete secondary education and a training in vocational skills that allow them to be a part of the working world. To this group, a PAR team of six research students—from the Bachelor's in Social Sciences focused in PAR in UPRH—and the team of FAC were added.

The phases of the action-research project are summed up in:

1. Identifying the felt-expressed need by each of the five NGOs to collectively design a training and coaching program (participative diagnostic).
2. Training of leaders and allies of each NGO in citizens competences.
3. Learnings transference process to other participants (educative mentoring).
4. Follow-up to the changes in each NGO for the measuring of their activation and mobilization levels.
5. Processes systematization for the redaction of recommendations.

In order to achieve effective actions as citizens it is crucial to *know and know-how*, this is, to know and act from the citizens competences. They have a great impact in our daily life and decide if they will be of benefit to the community and society as an assemblage. Do we know what citizens competences are? Do we act, relate and mobilize according to them? How do we know which decisions and actions can benefit us and which encroach against the common good? These are some of the questions that we need to make when we talk about citizens competences. The democracy and active-participative citizenship are proposed as a vital issue in these times where citizens rights and the state's responsibilities are fragilized and torn down. Could we act differently in order to achieve more supportive, just and equitable societies? How can citizens competences contribute to attain it?

Citizens competences have been defined as those cognitive, emotional and communicative abilities, learnings and attitudes that, joined with each other, incite people to act in a constructive manner in a democratic society. They allow citizens to actively contribute in a pacific coexistence, responsibly and constructively participate in democratic processes and understand plurality as an opportunity and resource of society—both on intimate milieus (family, friends, school) and

community, country or internationally. For a basic education in these competences we can include these four basic topics: 1) citizen participation; 2) human rights; 3) conflict management and reinforcement of social skills; 4) acknowledgement of our differences and solidarity (Ruiz & Chaux 2005).

Identification of the felt-expressed need of the five NGOs (participative diagnostic)

By the felt-expressed petition, at the end of 2016, we designed a pilot program of “Capacitación de Capacitadores en Competencias Ciudadanas” directed to the staff and board of directors of five NGO’s from the “Alianza Para la Educación Alternativa” (AEA). This program was designed while acknowledging the socioeconomic and political context of Puerto Rico. The NGO’s from the AEA offer services to this population, mainly, offering alternative education models that potentiate their knowledge, skills, abilities and their integral development as human beings.

In light of the fiscal and democratic crisis, the board of directors from the AEA acknowledged the need of rethinking their models and strategies; to train themselves in order to train their participants in citizens competences so they can exert their citizenship and potentiate the changes the country needs.

Training in citizens competences of leaders and partners of each NGO

The Program initiated in May and continued until the week before Hurricane María. The training could not be completed since the NGOs had to dedicate their efforts to aid affected communities by the hurricane. Even then, we were able to offer between eight to 24 hours of training and educative mentoring in citizens competences identified as necessary for each NGO.

We administered an evaluation to each participant at the end of each training. This evaluation included three areas: 1) new learnings; 2) concepts to look into and 3) actions which they would commit to further pursue the skills and learnings acquired throughout the Program. This was also a participatory exercise since it encouraged the reflection of their learning process and capacity to take action in each participant (individually and as a collective).

Five months after Hurricane Maria made landfall, on January 24 of 2018, we agreed to continue with the evaluation process of the Pilot Program, proposed the administration an impact evaluation and coordinated a pedagogic closeup to offer follow-up recommendations.

Learnings transference process to other participants

We designed an evaluation instrument with the objective of measuring the results and impact of the workshops. These instruments have two parts: the first one is specific for each NGO. This section was built from the answers given by them in the training evaluations. Based on the categorization and the summary of the answers to the evaluations, we prepared a list of premises for each organization to be validated by the participants on the impact evaluation. The second part featured open questions, so we could acquaint, after 8 months of receiving the workshops, learnings that have been implemented in their NGO’s workspaces, learnings that need to be strengthened, challenges that have been faced in their execution and what suggestions they might have for their NGO and/or us.

The Evaluation revealed that the participants expressed which learnings were acquired from citizens competences; the diversity of knowledge, skills and abilities a competent citizen must have. They informed to comprehend the difference between civic education and citizen education and understood the need of transforming the practicums and curriculums for the inclusion of some of the citizens competences in their NGO. Also, they expressed a need and interest in expanding their knowledge in citizens competences, particularly in specific skills such as: *active listening*, empathy and dialogue, so they can achieve an implementation to their personal and collective lives, work and community scenarios. Additionally, we had the following results:

1. Over 75 participants were trained in Citizens Competences.
2. Four of the five NGOs received over 16 hours of training associated to their felt-expressed needs.
3. We successfully designed and implemented surveys and training modules.

4. Various NGOs had the opportunity of being trained in *Total Language* (a methodology that integrates the three competences) and were able to facilitate these competences on their region as a way of having a live formation experience and used it after the hurricane Maria impact their regions.
5. A 100% of participants expressed to have learned what citizens competences are; the diversity of learnings, skills and abilities that a competent citizen should possess.
6. A 100% of participants understood they learned pedagogic strategies to strengthen and encourage.
7. 85% of the participants informed they understood the difference between civic education and citizen education.
8. 75% of the participants comprehend the need of transforming their NGOs practices and curriculums for the inclusion of citizens competences.

Identified Challenges

With the objective of evaluating the experience, we summarized some of the challenges for the fulfillment of certain phases of the Program. The initial meeting with the NGOs reached execution in April 2017 and led to the delay of the whole implementation calendar—which was established and approved since January 2017. Therefore, the beginning of the workshops overlapped with the summer break. During this period, we were able to train two of the NGOs. However, the other NGOs requested scheduling their workshops during August 2017—the beginning of the academic semester.

The initial goal, that all the members of the board of directors from the NGOs of the AEA were impacted, wasn't fulfilled completely. The NGOs, though interested in the competences, sent direct service personnel to the workshops, which hampered achieving influence in the decision-making of practices and curriculum changes of the NGOs towards leadership, active citizenship and self-managed models. Only the Executive Director of one of the NGOs participated in the introductory workshop.

On the other hand, the passing of Hurricane Irma, and then Hurricane Maria, during September 2017, disrupted the offering of the remaining workshops. For one of the NGOs, we were not able to coordinate their workshops. Because of the national emergency, the NGOs redirected their attention to respond to the urgent needs of the populations they serve. In the same way, FAC coordinated regional encounters in which, while using *Total Language* methodology, we facilitated a reflection process from the experience of the hurricane till the co-creation of strategies for the transformation of Puerto Rico as of its regions. We facilitated four regional encounters in which part of these NGOs participated as facilitators.

This event limited the offering of the coaching and the follow-up to the NGOs for their practical implementation and transference of the citizens competences to their lives, organizational structure and with the participants in their service centers.

The day to day basis of each NGO and their constant practice of focalizing on handling the urgent issues, maintained them with a difficulty of reflecting on what they needed to know and know-how, in terms of doing more and achieving transformative changes in less time with limited resources—as demanded by the times of crisis that we faced as a country. Models that include citizens competences and the training of trainers can achieve these objectives without the necessity of onerous investments for the personnel and the NGO.

Other challenges that the participants experienced in their personal and work scenarios were:

1. Personal resistance towards change.
2. Changing habits and customs that collide with the citizens competences.
3. Developing the habit of active listening in order to comprehend other's feelings and viewpoints.
4. A space where we can nurture citizens competences.
5. Grappling with a resistant culture towards dialogue.
6. Time for training and reflection.

Conclusions and recommendations

The participants understood some fundamental future actions for their personal and professional development: 1) independent and collective education in citizens competences for their personal growth and the NGO's; 2) be more active and conscious towards other's needs; 3) build up spaces for deliberation, discussions and forums about citizens competences; 4) engage collectively in activities for the understanding and appropriation of citizens competences; 5) redirect their structure for a transformation.

On the other hand, there are some fundamental future actions for FAC and UPRH:

1. Offer a complete course with coaching and with the commitment of participants (and their interest in participating).
2. Offer an educative coaching to the NGOs from the AEA and complete the workshops and topics requested in the evaluations.
3. Design and implement a training program in citizens competences for young students as a second phase of the program.
4. Design various training models (8-16-24-30 hours) to adapt them to the needs and conditions of the NGOs.

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The Architecture Behind the Malpractice Concept Guidelines

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ABSTRACT: The right to life is a goal written in many written and unwritten norms, and alongside it, we can align the responsibility and, at the same time, the liability of those who have the duty to perform the medical act with holiness and dedication. Starting from common law, imperative norms and devices and going beyond the universal right, like for example, the one built up by the European Convention on Human Rights, we can unequivocally affirm that the right to life, health and the integrity of the individual is the most important human right, which not only the state has to protect, but every one of us. Thus, through this study, we will try to substantiate the pillars of ethics that medical art has woven its way through the passage of time, pointing to another essential goal - to prevent malpractice.

KEYWORDS: Code of Ethics, ethics, health, law, malpractice

Introduction

The concept of malpractice has appeared since the earliest times, since 1725 before our time (Bioclima n.d.). Thus, among the first provisions on criminal and civil liability, appears in the “Code of Hammurabi,” “The laws of Manu,” “The Books of Life,” “Vedels (India).” Moreover, the doctor's conditions of activity and his liability for mistakes made, appear in biblical books.

Going into the philosophical field, we can remember that Plato was the one who claimed that the doctor had professional immunity, and Aristotle, on the other hand, stated that the judge should understand if the actions were made as a result of constraint or ignorance, and that collective justice will apply to any type of relationships, both civil and criminal (Mangu 2010).

Defining the term malpractice. Legal regulation

According to Article 642 of Law no 95/2006 on healthcare reform, malpractice is *the professional misconduct committed in the exercise of the medical or medical-pharmaceutical act, generating damages to the patient, involving the civil liability of the medical staff and the provider of medical, sanitary and pharmaceutical products and services* (Law no 95/2006 on Health Reform, as subsequently amended and supplemented, published in the Official Gazette no 372/28 April 2006).

By the idea of medical staff, we refer to doctor, dentist, pharmacist, nurse and midwife who provides medical services. They contribute to the observance of the fundamental human rights enshrined in Art. 22 of the Romanian Constitution, namely the right to life and the right to physical and mental integrity.

Considering the importance and the multitude of these errors at the present time, at the level of the public health departments have been set up certain committees that deal with monitoring and professional competence in cases of malpractice that are perceived by injured persons. An important aspect is that these institutions are not in charge to deal with the prevention area, but they are in charge with establishing the competence and the responsible medical framework, rather than the prevention of such acts.

Following a thorough study, it has been concluded that issues such as sanctioning or preventing malpractice acts are, at a weaker level, the Commission of malpractice itself having unclear attributions that often overlap with those of other law enforcement agencies. Because of this, we are constantly working on a way of systematizing and maximizing these institutions, in order to be able to significantly reduce any kind of medical error that ends with the physical or mental injury of a person.

The Code of Medical Deontology

Since ancient times, medicine aims to protect human health by completing the disciplines that guarantee freedom of expression and affirmation, these being represented by legal and ethical sciences.

The Code of Medical Deontology contains rules of conduct with mandatory character, which refers to the exercise of the rights and duties of a doctor as a professional.

Article 3 of the present Code enshrines the health of the individual as a superior goal, the medical staff and, in particular, the doctor having the obligation to protect the health of the patients and their dignity regardless their age, gender, race, ethnicity, nationality, religion and political ideologies.

As for the violation of these rules, the doctor may be held accountable if the guilty conduct of that person has resulted in injury to the individual.

Ethics, morals and deontology are the elements that form the main ethical and deontological aspects of medical activity. The term ethics (ethos = manners) studies moral categories and principles, rules of conduct, etc.

Through morality, it is reflected how ethical principles are applied in everyday life that can be defined as the science of human well-being and responsibility. Regarding the deontology (deon = what it is needed, logos = science), it studies the obligations and regulations of professional activity, including one of the doctors. That is why knowledge of these bases is an essential condition for eliminating the negative sides of medical activity, and this profession cannot be conceived without respecting the principles of ethics and deontology.

Speaking of the basic principles of exercising the profession of doctor, as they are inscribed in the code, we observe:

The purpose and role of the medical profession (defending the individual's life, health, physical and mental integrity)

- Respecting the dignity of the human being
- Non-discrimination
- Obligation of professional rules (all diligences, rules and professionals obligations, as well as those relating to conduct)
- Professional independence (it is forbidden to determine the medical act for economic or administrative reasons)
- The primordial interest of the human being
- Obligation of diligence by means (the entire doctor's knowledge and skill is dedicated to the patient, who has a guarantee of the decisions made by the medical staff)
- Professional specialization (the doctor acts according to its specialty)
- Doctor-patient relationship (exclusively professional)

The insurance for malpractice

The concept of civil liability within this area aims to compensate for damage caused by an unlawful act. As for the medical act, although it does not definitively exclude the commission of an illicit deed intentionally, however, we often deal with acts of guilt, in the doctrine being presented several types of fault, such as:

1. Omission guilt (inaction)
2. Comisiv quilt ((imprudence, incomprehension)
3. Culpa in vigilando (uninformation)
4. Culpa in eligendo (wrong choice of medical procedures)

Another crucial aspect that led to the necessity of such insurance is the distinction between the mistake of failure to comply with the norms of medical behavior and the mistake of medical error that is determined by various critical situations, in most cases regardless of good-faith and conscientiousness of the medical frame.

According to the Article 656 of the Law no 95/2006, the medical staff who provide healthcare, both in the public and private system, in a special destination for medical care, as well as when it is given outside this place, following an express request from the person or those requiring this assistance, or a third person requesting it.

The insurance for medical malpractice is mandatory, all of which are members of the medical staff being obliged to take out civil professional liability insurance, the copy of which must be submitted before the conclusion of the employment contract.

Speaking of the parties to the medical malpractice insurance contract, the essential condition is to be retained, namely to be part of the medical staff category. Better said, the insured person must have one of the following professions: doctor, dentist, nurse, pharmacist, midwife etc.

Table 1. Comparison between the original and current version of the Hippocrates Oath

Original version	Current version
I swear to Apollo the doctor, Higea and Panacea, and all the gods and goddesses, whom I take as witnesses, that I will do this oath and his commandments as much as the forces and reason help me.	I make this oath solemnly, free, of honor!
To respect the one who taught me this art just like my own parents, to share with him what belongs to me and take care of him when he needs, to consider his descendants as brothers and to teach them art, if they want it, without obligation and without being paid.	I will keep my teachers the respect and recognition which are due to them.
To pass on the teachings of this art to my sons, to my master's sons, and to those disciples who swore by doctor's habit and nobody else.	-----
Sacred and clean I will keep my art and lead my life.	I solemnly commit to devoting my life to serving the community.
As much as the forces and reason help me, my perseverance is made only for the benefit and good condition of the sick, to guard them against any harm or violence.	The health of patients will be for me the sacred obligation.
I will never prescribe a substance with moral effects, even if I am asked for it, and I will not give any advice in this regard. I will never give an abortiv remedy to a woman.	-----
Whatever I see or hear during a treatment will be kept in secret, because silence is a duty.	I will keep the secrets entrusted by the patient even after their death.
If I respect this oath and I will not tread it, my life and my art will enjoy reputation and respect from all people, if I betray it by perjury, then the opposite.	I will keep full respect for human life from its beginnings even under threat and will not use my medical knowledge contrary to the laws of humanity.
-----	I will not allow to interfere between my duty and the patient considered by nationality, race, religion, party or social status.

Source: Dancea 2015

The insurance remains valid for the whole period of the medical profession, ending with the loss of the quality of being part of the medical staff category.

Duties

As we know, every doctor needs specialized training, and this tortuous road ends with the submission of a sacred oath that has its origins since ancient times

So, among the duties of medical staff, can be reminded:

1. To inform the patient about treatment and its real situation
2. To be up to date with medical advances
3. Keep professional secrecy
4. To respect the dignity of the patient, and other aspects of the oath filed.

Malpractice analysis

The term of malpractice defines the same issue, both nationally and internationally. However, we have tried to make a comparison of this concept.

Table 2. Brief comparison regarding the malpraxis in the world

Romania	Europe	World
Law no 95/2006 on health reform.	Germany, France and the UK have regulations to control malpractice.	US-Office of Research Integrity controls reports of scientific malpractice from sustained research through US Public Health Service.
	In Spain, for example, most research institutions do not have scientific integrity codes or policies to address malpractice.	
The patient, in the case of malpractice, may address either to the police or to the court. In addition, you can opt for a prior mediation procedure.	In the absence of appropriate customs, internal regulations can provide solutions through conciliation or arbitration, as is the case in Deutsche Forschungsgemeinschaft.	In countries like China, Indonesia, Vietnam, or Thailand, patients who consider themselves injured appeals to the hospital for the payment of damages.

Malpractice internally

Internally, we can affirm that there have been numerous cases, more than 1850 complaints of malpractice have been brought in the last 10 years to the attention of the county colleges of doctors.

The death and medical malpractice have been added in recent years to the thick list of reasons why Romania is sued at the CEDO (Corlăţean 2011) and even convicted by the Strasbourg Court (cases: Cojocaru, Miha Romila, etc.).

Nevertheless, an improvement in the precarious situation of the Romanian medical system is being attempted. Until now, we cannot pronounce on some controversial issues, but with a fair analysis, new and new recommendations can be made.

Ever since joining the European Union, Romania had an obligation to adopt a legislation to stipulate medical malpractice, which has led to a reduction in the number of cases in which medical staff are guilty (Călin 2016).

Malpractice internationally

In most European countries, the legislation does not address cases of malpractice, but we can see that some countries have found innovative tools and methods to improve things (Ibidem). For example, public health is one of the areas where the European Union has only support competences, meaning that its action merely complements the actions of the member states. In addition, the

organization of health services in the European Union is primarily a national competence of the member states, which are free to organize their health systems, to make decisions on how the system works and its finances.

Conclusions

Therefore, the interweaving of responsibility and liability has a fundamental role in the development of a society regarding the malpractice, and beyond identifying the culprits, whether we are talking about the fault of the hospital, the doctor or even the patient, prevention is perhaps the most important aspect.

Health occupies a primordial place in our lives. The European Union plays an important role, supporting national governments in their efforts to maintain during our lives. That is why we need to make more efficient use of resources that can prove to be valuable in improving the health of the population and maintaining the efficiency and sustainability of the health system will grow (Vlădescu and Bușoi 2011).

Therefore, increased attention should be paid to preventing and promoting a healthy, longer and more active life by addressing life-cycle health determinants.

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Performance Management and Quality Assurance in Primary Healthcare Institutions

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ABSTRACT: Applying the new health reform gives an unprecedented interpretation to most of the definitions known under a certain form in the socio-economic, general and managerial relationships in particular. In this context, most specialists support the definition of quality of care by optimal patient care based on the use of standard treatment protocols, additional and individual services that are applied in the system of interactions and interpersonal relationships between physician and patient. Obviously, the way in which healthcare managers are addressing quality differs greatly according to organizational culture, personality, experience and training. Good quality management consists of planning, organizing, practical implementation, leadership by applying the most effective organizational decisions, control and evaluation, and last but not least, reviewing the necessary measures to model management services and processes so that they can respond permanently to the most stringent needs of beneficiaries, suppliers, financiers, etc.

KEYWORDS: quality, health, management, patient, treatment

Introduction

The concept of quality is a very broad concept that generally involves the existence of three fundamental characteristics (Gheorghe 2006, 192):

1. **professional quality** - which means that both the product and the services fulfill the necessary conditions established by the standards of medical practice. Because the degree of the practitioner's professional satisfaction is directly related to the quality of the medical act, but also takes into account the context in which he/she works. In this respect it can be said that the existence of organizational satisfaction leads to an increase of the individual and organizational performance;
2. **the quality from the point of view of the beneficiary** (patient satisfaction). Normally, patients do not have the necessary knowledge to assess the technical competence of the health care provider, but they know best in what state their health is, their treatment, and how they have been treated, also to what degree their needs/expectations were fulfilled. Patients often limit themselves to asking questions, and they evaluate medical services as being convenient or not. The existence of this dimension of quality leads to the development of positive/negative behaviors from patients (acceptance/non-acceptance of recommendations, increased/low treatment compliance, continuity/discontinuation of treatment, decrease/increase of treatment abandonment rate, etc.). Sometimes patients' expectations are much higher than what the doctor can offer, or they may be rigid and tend to resist what they regard as interference with strictly personal issues. For this reason, the patient's perception can be considered a consequence and not an attribute of health services;
3. **total quality management** –Total quality management can be considered as an organizational model that attests to the participation of all organizational factors in order to develop and implement the process of improvement of quality that can meet or exceed the expectations of the beneficiaries. This organizational model takes into account the premise that 90% of all the issues addressed are process-related problems, not staffing issues. The principles of total quality are represented by the focus on the recipient of medical services, teamwork and continuous improvement of quality.

According to ISO8402/1995, the definition of quality is: “*The set of characteristics of an entity, that gives it the ability to meet known and potential needs of the user*”.

In general, the concept of quality has economic, social, philosophical and technical meanings and is used in various fields. As a general definition, the literature highlights various derivatives that emphasize certain aspects:

1. J.M. Juran (1988, 23) says that quality is: “the ability through which certain needs are satisfied or the level at which the product can successfully serve the expectations of consumers”;
2. According to Grönroos’ theory (Grönroos 2007, 38): “quality represents the full satisfaction of customers' wishes”;
3. Stanciu I. (2003, 65) considers quality as: “the level at which processes, services and products reach and even exceed the expectation level as well as the requirements of consumers”;
4. Al-Hawari (2006, 228): “quality is the main cause of business performance”;
5. Kara Henson & Co. (Sheikh, Gilson, Agyepong, Hanson, Ssenooba, Bennett 2011, 8) argue that: “High-quality healthcare services or products are those that relate to effective care and meet the needs and expectations of all, respecting the criteria of humanity, equity and efficiency”.

The complexity of quality is given by the multitude of existing definitions, all the above-mentioned definitions presenting different conceptual points of view, as well as due to the determinant factors that are referred to (Raboca 2013, 5).

Evolution and attributes of quality

In the field of health, Etco Constantin (2006, 636) says: *“through quality we understand, to a large extent, the proper conduct of risk-free interventions, which the public health system can cover in terms of costs, which have the ability to meet the patient's reasonable needs and expectations and to produce a favorable impact on the morbidity, disability and mortality of the population.”* In other words, quality means doing the right thing at the right time and in the right way.

In the computerized society, patient expectations are formed also by assessing the technologies used and applied in health units, by comparing the quality of interpersonal relationships, communication and psychosocial support offered to patients.

Healthcare institutions in most developed countries have a department specifically created to control quality issues, in charge of planning and implementing a total quality management system (MCT), which implies an understanding of the principles related to quality improvement according to Table 1.

Table 1. Several principles related to quality improvement in sanitary units (Raboca 2013, 5)

Total quality management system for healthcare facilities	
Principles related to quality improvements	- quality requires conscious and sustained involvement of all employees in the organization
	- quality must be clearly perceived by the beneficiaries of the health services (patients), in this sense it is necessary for the healthcare institution to take into account the needs of the consumer both in the planning, designing, producing and activities made in the provision of quality medical services
	- quality involves collaboration with all partners involved in the delivery of quality medical services (suppliers of equipment, medicines, high-performance medical services, etc.).
	- quality does not refer to and is not limited only to medical services, it must be found in all the activities carried out by the health care institution.
	- quality is a necessary element, but sometimes it may prove to be insufficient, especially if partners/competitors do not act in the same direction

	- quality can be improved at all times because it is obtained in the easiest way, by reporting own performance to the performance of the strongest partners/competitors
	- in general, quality does not cost anything extra, instead, it requires you to do things right from the start

General framework on performance in the health system

There is a wide variation in health outcomes for countries with similar levels of income and education. Some variations are due to differences in health system performance. Differences in form, content, and management of health systems translate into socially measured results such as health, ability to respond to population expectations or equity.

Decision-makers at all levels need to quantify the variation in health system performance, to identify the factors that influence it and formulate policies that will generate better outcomes in a variety of situations. At the level of the country regions, it is also necessary to evaluate the performance of the system subcomponents (Preston 1986, 34-40).

In the OMS vision, the concept of performance is around three fundamental criteria:

1. Improving the health state;
2. Maximizing the possibility of responding to the needs and expectations of the population;
3. Ensuring fairness and equity in relation to financial contribution.

Cristopher Murray and Julio Frenck (Murray & Frenck 2000, 1) propose a general framework for understanding the performance of health systems. They believe that a convincing and operational framework for assessing the performance of a health system is vital for the work of governments, development agencies and multilateral institutions.

A major application of this framework is the structuring of the World Health Report's statistical annexes. Since 2000, this report has provided information on the health system's performance of each country:

- a. Improving health, which is the founding principle of the health system, means at the same time improving people's health and reducing inequality and discrimination procedures;
- b. Maximizing the capacity to respond to the needs and expectations of the population includes two major components:
 - respect for the person (including respect for human dignity, confidentiality and autonomy of individuals and families with regards to decisions affecting their own health);
 - orientation towards customer/patient (including prompt delivery of healthcare, access to social support networks during care, quality of basic services and free choice of service provider) (WHO - The World Health Report 2000).
- c. Ensuring fairness related to financial contribution means that each household pays a fair share of a country's total health spending (which may mean that any poor household does not pay anything). This implies the fact that everyone is protected of financial risks related to health care (McKee & Healy 2002, 112).

Measuring the performance of health systems links the achievement of the basic goals (the three pillars) and the resources available. Performance can be judged by comparing how the basic goals of the healthcare system have been reached in the ideal way in which the goals could have been achieved, given the resources.

The World Health Organization has defined health for over 50 years as “*full physical, mental and social well-being, and not just the absence of disease or disability*”. The World Health Organization approach has the merit of capturing the positive and partially subjective nature of the concept of health. Whatever the definition of health, it is important to differentiate its determinants: behaviors, biological factors, physical and social environment that influence health.

The state of health of the population and the health protection are closely related to the medical and social problems of the population, to the correlations between the socio-economic development and the evolution of the public health and health organization (macrosociology

problems), social factors (social-economic agents) as health risk factors and health protection factors, climate in working collectives, family issues, internal sociology of sanitary units, the level of health culture, and the health behavior of the population.

In Romania, as in all ex-communist countries, prioritization of health services with universal access is a matter of high relevance. We can distinguish two major aspects: budgets allocated for health care are very low, limiting the provision of all the health services required by physicians and the population, as well as many effective interventions, being neglected both economically and medically, underfunded or provided at reduced qualitative standards when exactly this type of intervention should have a higher priority and benefit from important resources, having the certainty of a positive impact on the health of the population using the essential healthcare package. In our country, when mentioning the state in relation to medical services, we can refer to central or local level structures such as: the Ministry of Health, the National Health Insurance House, the Public Health Department, the County Health Insurance Houses, or County Councils and Town Halls that also have some health responsibilities.

Sanitary authorities are responsible for health care of the population, needing to streamline health care as long as their budgets are finite and must decide what healthcare services to provide (minimum package or on demand), thus we can see a streamlined model of medical services such as: primary care, where the GP decides if the patient needs additional investigations or treatments, waiting lists, professional autonomy that leads to patients' confidence that the decisions made on their treatment are taken on strictly medical rather than administrative criteria.

A healthcare system can be characterized and evaluated taking into account two of the most important aspects: its organization and the financial flow of its activities. Taking into account the financial flow, three categories can be identified: the payer, the supplier and the consumer (the patient). According to the literature, the financing methods of the healthcare system can be: National Health Systems where we see funding from global taxes being redistributed through the State Budget, health insurance schemes based on mandatory contributions to the special health fund, Private Insurance Health Systems based on voluntary insurance premiums, Direct Payment in which the patient pays his/her medical services directly whenever he/she needs them or Copayment where the patient pays in addition to the health insurance he/she benefits of.

In this context, based on the requirements of the human society, social and economic interests appear in the health care system, highlighting at least three basic aspects with different sociological levels such as: patients who are interested in receiving the services as operatively as possible, for the services to be cheap and of high quality, medical staff who are interested in material and moral self-confirmation (salary, working conditions, assertiveness and respectability perspectives), administrative and management structures of the medical sector.

Conclusions

Health is an indisputable and immeasurable resource of the human being, of the individual and society as a whole, considered to be one of the most important national values. In this respect, the assessment of health services and programs is the main desideratum of all developed countries.

Quality that must be perceived by patients in the provision of medical services requires cooperation with "quality" partners, performing medical institutions, modern equipment suppliers, medicines, sanitary materials, reagents and competitive and qualitative foods.

Quality can always be improved and this can be achieved by comparison with other institutions of the same kind, or by reporting your own performance to the most powerful competitors or partners. Quality does not cost anything extra, but you have to do things right the first time. Quality assurance is a systematic process, aimed at continuously improving the performance of medical care.

A healthcare institution must provide a high level of employee satisfaction by motivating them to improve their knowledge and to seek new solutions to the institution's problems, and as a result, we will see superior quality medical services. Thus, the quality of sanitary services is interpreted as optimal care of the patient, based on the use of standard treatment protocols.

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Transformational Processes in Organizational Life: Symbolic Imprinting and Symbolic Triggers

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ABSTRACT: Organizational life is multi-focused symbolic reality today, new and existing employees learn, transfer and transform in working experience. Managerial actions give both real and symbolic results. Symbolic contexts, like influence, commitment, shared values, mission clearance in project teams and others, create challenges. The paper discusses symbolic imprinting and symbolic triggers in organizational life, and shares the first cut results of the study through the metaphoric mechanics among business school students with fresh working experience. Symbolic imprinting constitutes stamping in memory some transferring values and meaning interpretations, and symbolic triggers are the external environment signs and images, which make imprints work out in specific thinking, behavioral, and communication mechanisms. Transformational processes – learning, growing, development, - are realized within the symbolic context. Symbolic imprints and triggers transfer specific concept of the organizational life, freeing up the meanings and important orientations for ‘homo symbolicus’.

KEYWORDS: symbolic management, transformational processes, organizational life, organizational symbolism, symbolic imprints, symbolic triggers

“The snake which cannot cast its skin has to die.
As well the minds which are prevented from
changing their opinions; they cease to be mind.
Those who have a ‘why’ to live, can bear with almost any ‘how’.”

F. Nietzsche

Introduction

Transformation is the foundation of the Universe and human existence. Milton Erickson within the five coaching principles underlined that ‘change is inevitable’ (Atkinson and Chois 2007). Everything changes, nothing exists or continues without change. It concerns physiology, Earth, seasons, biology, society and human spirit. Merilyn Atkinson and Rae T. Chois in the “Inner Dynamics of Coaching” continue their speculations around the symbol of Human – letter H, which looks like human body, and is a symbol of the human nature building (Ibid.). Organizational life is created around human, it is a symbolic system, which is regulated by the human factor. In organizational life this symbol – H – as founded on the ground and appealing to something in the air, as rooting in the basis and growing for development, transcending the levels of existence, - stands for the organizational life transformation processes. Transformation differs from transition in the context and content merge, so transformation is possible only through symbolic.

Symbol and Transformational Processes in Organizational Life

Symbol is an intuitive spiritual inception displayed by means of signs, images, and metaphors that give shape to symbolic sphere. The symbolic sphere consists of the three areas – psychological (image), semantic (metaphor), and communicative (sign). In all these areas images, metaphors and signs exist as simulacra of the original symbol’s meaning. Susan Langer (2000) observing the symbolic, underlines that symbols present not the objects but are transferring specific concept on those objects . So, symbols and symbolic in organization transfer the concept and context on the common objects, operations and actions. Symbol is the merge of the context and the content. Organizational life is created and based on symbolic relations. Semantic, communicative and psychological areas unfold the code law of

organization today. Jean Baudrillard (1994) underlines that symbolic is not a meaning, not a state, not a category neither structure, it's an act of exchange and social relation setting the end of reality, resolving in itself reality, and opposition of reality and imaginary. Symbol has transformational energy, energy to transform the reality and the imaginary. Instead of transactional – just exchange of meanings, symbol creates transformational space, - connecting, merging and changing the meanings.

Humans surround their activity by many rituals and attach meanings to these activities and rituals as well. When people get together they 'organize' these activities, meanings and rituals in such a way that they constitute tradition, and in some sense with the mental field intervention as well culture (something defining behaviour opposite to nature). These surroundings have symbolic nature, and brightly are deployed in organizational life, where group of people within the specific structure define specific purpose. The 'human' component creates additional complexity for the system managers need to plan, organize, lead and control in. This complexity is resolved in the transformational processes, like new employee orientation programs, or learning and development cycles, or gamification in human resources management, and others. Any action, rule or solution creates transformational energy, and human – letter H as symbol, is founded on the ground of the organization, and appeals to transcend it in the growing potential. The ground symbolically is presented by the symbolic imprinting, and the growing transcendence – by the symbolic triggers.

Symbolic Imprinting and Symbolic Triggers

Imprinting is mostly studied in animals, less in human psychology. In its genesis it means 'stamped in' impression, tactile, visual or sound memory. It is like the selective fixed information in memory. All people have periods when their memory is sensitive to imprinting, so some environmental events can be stamped in, and influence decision, behavior and even values choice in the future. Symbolic context of organizational life (interactions, communication, relationships, decisions, job satisfaction etc.) creates the situation for human sensibility, as it is the situation of suspense (border situation). Mircea Eliade (1991) specified that rituals open the suspense situation of a humankind; it is a situation where human realizes the place in the world. Symbols' function in Eliade's interpretation, is to open the whole reality, other means are not able to do. Karen Svasian (2000) states that there is no symbol itself in any of its forms; its being is in metamorphose, is forms transform. So, symbolic situation is a situation of transformation, and symbolic imprinting gets its place in these situations in organization. Social imprinting is presented in the number of imprints among people, like basic principles, values, stereotypes, which in their turn define the attitudes towards leadership, discipline, ethical issues etc. Symbolic imprinting means stamping in memory some transferring values and meaning interpretations, which define the actions and behaviors. For example, in organization symbolic imprints can be values important for the group of people and successes they experience together. The symbolic imprints are deployed in meanings and understanding employees hold about organizational goals, priorities, can be transferred into job satisfaction, attitudes and decisions.

Symbolic triggers are the factors of the external environment which start specific behavioural mechanisms, usually transcendental, exceeding the limitations for growing. In some sense basic behavioural imprinting is displayed in the reactions on triggers in organization. In the specific situation people release these imprints in their understanding and interpretation, which in its way lead to the specific behaviour. Marshall Goldsmith (2015) in his view on triggers in life and workplace underline the importance of self-awareness in making decisions and choosing the style of behaviour. Struggling with triggers is especially difficult what they have symbolic context and are based on the symbolic imprints, not changeable over time.

Symbolic imprinting with the transformational energy gives the growing symbolic triggers, something which can make a person to change the basic reactions, and to activate a mechanism of a total different quality. Gregory Bateson (1972) describes the learning levels from 0 to IV. Level 0 is not transformational, it is changing nothing, keeping same patterns even if they are ineffective, just keeping doing the same. In pure meaning of the word 'learning' 0 level is like not learning, it is more repeating the same pattern. Level I when already change can start, it is correction and step-by-step modifications and adaptation. Level II learning is about jumping changes, like jumping from one system to another,

radically different; for example, change of policy, direction, 'frame'. Level III is evolutionary change, some important improvements within the existing context or pattern, development, but immanent changes, becoming the new pattern, paradigm. Learning IV is revolution, going outside of the pattern, of the system, radical context change, quality change in the mindset, new vision and view of the world, you and content. Interpreting the Bateson's levels within symbolic triggers and imprinting, Level 0 learning is realization of imprinted patterns with no change. People learn the patterns in pre-awareness way, so they learn something in organization, and only then in Level I can become more aware, realize the meaning or need of this rule or behavior. Level IV learning is the transformational energy of symbolic triggers, making people transcend to another context, change the mindset, and develop mindfulness in organizational life [see Figure 1].

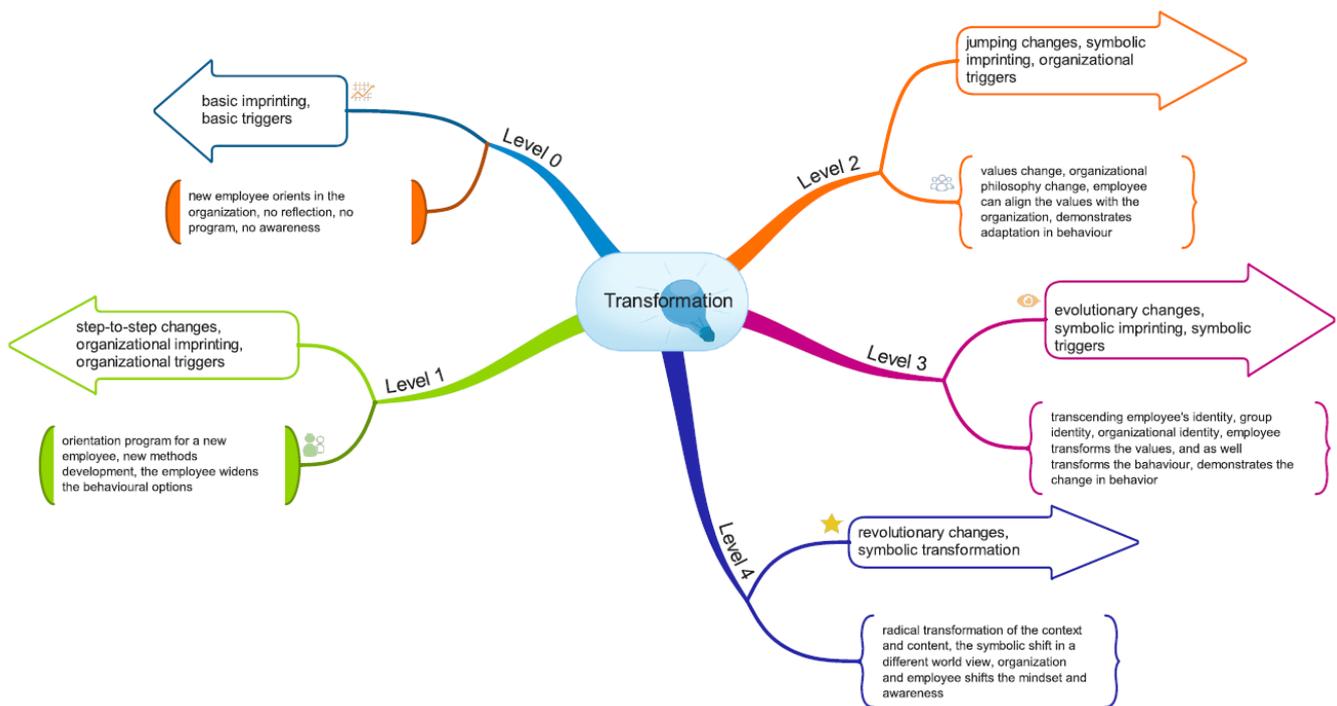


Figure 1. Symbolic Imprinting and Symbolic Triggers in Connection with Bateson's Learning Levels

Study of Transformational Processes Symbolic Imprinting and Symbolic Triggers

Symbolic activities should be studied through symbolic mechanisms. For this study it was chosen metaphor, specifically fairy-tale. Respondents (students with the first employment experience) were asked to recall their first experience when they joined the company work for now, or worked for before. The respondents additionally were asked to imagine if they would describe this experience in the fairy-tale format and answer several questions [see Table 1].

The answers varied in their imagination and context interpretation, as well reflected the nature of the imprinting and triggers experience respondents have or had in their orientation period in the workplace. In the first question about the hero, about 80% of respondents underlined the courage and at the same time freight of the main hero, as well as openness and readiness for learning. About 20% chose as the main hero a strong figure (associated with the Leader in the organization), e.g. Father or Beast (from 'Beauty and the Beast' tale), describing the hero as strong, rich, successful and protecting.

The second question included other characters of the fairy-tale story with their behavioural patterns and styles description. Respondents demonstrated the reverse in this question, i.e. those who have as the main hero someone not confident enough yet, choose as other characters confident and ready-to-help people, experienced, educated and calm. If the others were described as 'cruel', the main

hero is looking for those who are 'helpful and supportive' (only about 10% of respondents). In one example, the hero and other heroes are not in a reverse, both are confident, calm and ready.

The third question was dedicated to the events in the beginning. Most of the answers metaphorically represent some problem, new issue to deal with, something not known or not lived through experience, e.g. 'the world is new', 'struggle, separation from family', 'curse', or something bad happened, 'the main hero's sister was taken to the deep forest by Hydra', etc. In all the beginnings there was a need of both hero and other characters who are more experienced, to participate in the saving campaign.

Question four had the most important meaning for the research, to see the reasons people find their transformations based on, like the symbolic transformational energy, more level of symbolic imprinting and symbolic triggers. Respondents include in this metaphoric challenge someone or something not met before in the story, e.g. family, new person, hero's partner, people like her, and others. About 20% of respondents underline that 'life' itself or situation itself made the hero to transform.

In the question five the respondents' endings vary. The hero and the partner defeated the 'monster and saved the girl', they solved the problem, and came out as real heroes. The hero is aware of who she is and what she wants, come back to real self and get the partner who accepts this real self. The hero overcame the moral obstacles. About 30% offer 'happy end', and 10% suggests a negative situation in the end, which strengthens the hero in what s/he is.

Questions six and seven were related to the morale and values of the fairy-tale stories. These two mostly copied each other, so the answers were in parallel, demonstrating the values and attitudes important for the respondents in the workplace, e.g. strength, unity, to be oneself and to accept oneself, follow your goals, stability, calmness, kindness, to become not a hero, but the other character in the fairy-tale story (to reverse).

Table 1. Questions of the Study

1. Who is the main hero of your fairy-tale story? Describe the main hero (traits, behaviours, style)
2. Who are the other heroes in your fairy-tale story? Describe their traits, behaviours, style.
3. What happened with the main hero in the beginning?
4. What made the main hero to transform him/her or his/her style?
5. What is the end of your fairy-tale story?
6. What is the morale of your fairy-tale story?
7. What are the most important values you hold if you would be the main hero in your fairy-tale story?

Conclusions

Overall, the study shows the strength of the basic imprinting and triggers, and as well a potential for symbolic transformation, in the answers rarely are presented skills or new behaviour, more self-awareness, mindfulness, values strengthening and changing to the real self. Transformational processes in organization usually are based on the symbolic imprinting and symbolic triggers, levels of learning from 2 to 4. Symbolic context in organizations provides the combination of factors initiating the change. Symbolic sphere is characterized by the tense created within the symbol's duality. Symbol is gravitating towards zero, completion, absolute beginning. Tense means fluctuations, as symbolic context in organization is an act of exchange, social relation, code simulacra. Managing symbolic processes is like regulating temperature for the thermodynamic systems to get to the bifurcation point and get to the more complex level. Chaos engenders structures only by the specific 'accidently' fitting conditions, and today the manager's main target is to predict and control these conditions to understand what chaos will lead organization to at the bifurcation point, and moreover, to utilize it for achieving specific organizational goals. Such conditions in the organization, so-called 'regulating parameters' can be symbolic triggers.

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Teenage Pregnancy: Time for Change and Action

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ABSTRACT: Although the teenage pregnancy rate in the United States has declined over the years, it is still higher than the teenage pregnancy rates in other industrialized countries. This paper attempts to identify the types of changes that have occurred between 1994 and 2017 by comparing the results of a 1996 study by Ventura, Martin, Matthews & Clarke with the results obtained using the 2017 National Natality Dataset obtained from the Center of Disease Control via the National Center of Health Statistics. The new data from 2017 demonstrates that the proportions of teenage births have gone down over the past few years, and that the racial/ethnicity component of teenage childbearing is also showing a narrowing trend. Even though we recognize the downward trend in teenage pregnancy, the concerns regarding the long-term socioeconomic outcomes arising from teenage births are still at large. We conduct a quantitative Logit analysis to identify what factors increase the probability of teenage motherhood in the United States and also conduct a short analysis of relevant existing public policies to provide recommendations for improvements that could potentially reduce the risk factors of teenage pregnancy in the United States.

KEYWORDS: Teenage childbearing, birth rates, socioeconomic outcomes

Introduction

Being a teenage mother has a strong social focus and has impacts on the labor force in the economy. There has been a focus on teenage childbearing since the 1970s, since the social challenges can have an impact on the mother and child and lead to poor socioeconomic outcomes. Within the United States there has been a steady decline in the teenage pregnancy rate, however the rate is still higher than industrialized countries in the world. A brief overview of existing literature will allow us to separate the literature into 3 sections – socioeconomic factors of birth outcomes, teenage birth rate changes over time and racial/ethnic component of teenage childbearing.

The primary research question for the study is to detect and confirm the variables that contribute to increased risk of teenage childbearing in the United States by conducting a statistical analysis of all births for the year 2017 obtained from the National Center for Health Statistics (2018). We aim to identify the factors that impact birth outcomes and compare the outcomes for teenage versus non-teenage mothers. Thus, we propose to test two hypotheses in this study:

1. Are the maternal characteristics, history, and choices/factors consistently significant for the teenage versus non-teenage mothers? How do they differ?
2. Which factors determine the probability of teenage childbearing in the United States? Can any of these be addressed using policy instruments to lower the risk of teenage childbearing?

There will be a concise review of the existing literature, with primary focus on the socioeconomic factors that contribute to better birth outcome such as birth weight and longer gestation. Within the literature review, we will explore the identified variables that contribute to an increased risk of teenage childbearing. Thereafter, we discuss the dataset and the quantitative model before offering the results and conclusions that aim to lower the risk of teenage childbearing in the United States.

Literature Review

A. Socioeconomic Factors of Birth Outcomes

Even with advances in medical care for pregnancy and deliveries and implementation of programs to allow care for the impoverished population, the proportion of births that are low birth weight has only changed a little over the last 30 years, and the difference in the index between black and white populations have not lessened (Parnell, Sargent, Thompson, Duhe, Valois, & Kember, 1996). Prior research shows that a woman's age impacts the birth weight of a baby. Teenage girls are two times more likely to deliver a low weight infant than adult women (Ventura, Martin, Matthews, & Clarke

1996). A woman who is older than 45 years old will have the same risk of having a low birth weight baby as a teenager who is younger than 15 years old.

Table 1. Comparing Results from 1994 and 2017 for Percent of Low Birth Weight and Live Births by Age of Mother: USA

Table 1 Number and Percent Low Birth Weight and Live Births, by Age of Mother: United States 1994			
Age of Mother	Number of Births <2,500 g	Total Live Births	Percent <2,500 g
<15	1,766	12,901	13.7
15	3,527	30,742	11.5
16	6,502	63,125	10.3
17	9,685	101,302	9.6
18	12,526	137,547	9.1
19	14,851	172,772	8.6
20-24	72,565	1,001,418	7.3
25-29	69,850	1,088,845	6.4
30-34	60,645	906,498	6.7
35-39	29,447	371,608	7.9
40-44	5,922	63,502	9.3
45-49	321	2,507	12.8
All Ages	287,607	3,952,767	7.3

data from Ventura et al¹

Table 1 Number and Percent Low Birth Weight and Live Births, by Age of Mother: United States 2017			
Age of Mother	Number of Births <2,500 g	Total Live Births	Percent <2,500 g
< 15	225	1,921	11.7
15	616	5,601	11.0
16	1,450	14,401	10.1
17	2,877	28,664	10.0
18	5,397	54,321	9.9
19	8,899	91,774	9.7
20-24	65,763	766,112	8.6
25-29	87,035	1,126,355	7.7
30-34	83,834	1,094,790	7.7
35-39	48,992	556,241	8.8
40-44	12,591	115,162	10.9
45-49	1,510	8,551	17.7
> 49	238	861	27.6
All ages	319,427	3,864,754	8.3

Data from National Natality Dataset, 2017

Sources: Ventura (1994); NCHS (2018)

B. Racial/Ethical Component

As indicated in the research by (Roth, Hendrickson, Schilling, & Stowell 1998), “7.3% of all women who gave birth in the United States delivered a low birth weight infant in 1994, it obscured the fact that the low birth weight percentage rate for black women was more than double that for white women. “East Asian women have the lowest rate of preterm births, as well as Hispanic women” (Goldenberg & Culhane 2007). Women that are from South Asia and in particular the Indian subcontinent have a high rate of low birth weight (Goldenberg & Culhane 2007). Low birth weight creates a higher challenge for caregivers being able to provide appropriate health care to the infants (Klerman 1993). Throughout the literature, what stands out in multiple studies is that black women have a high rate of preterm and low birth weight and it remains unexplainable.

In addition to race, the income of the family has a correlation with birth outcomes (Kaplan, Pamuk, Lynch, Cohen, & Balfour 1996). It is said that teenagers who become pregnant are poorer than any other age group on women who have a child in the United States. “Recent estimates place 40% of US adolescent low-income population accounts for six out of seven teenage births” (Males 1995). Most of the teenage mothers are not married and do not receive financial support from the child’s father. These mothers are more likely to have parents who have low income, low educational attainment and be members of a racial minority group (Roth, Hendrickson, Schilling, & Stowell 1998).

The geographical location of the mother has also shown in prior research to have an impact on the birth weight of infants. Infants that are born in India will be on average 6 pounds, 6 ounces; in Sweden the average infant is 7 pounds, 11 ounces (National Center for Health Statistics (NCHS) 2018). Within urban areas there is a high concentration on minority teenager where teenage mothers drink, smoke and use drugs less than the white suburban and rural counterparts (Scholl, Hediger, & Belsky 1993). Thus, if a woman is giving birth in the United States but is primarily residing in another country, the birth outcomes of the infant are likely to be different than for women residing in the United States.

In summary, women who are poor or black have twice the preterm birth rate and higher likelihood of growth restrictions than most other women (Goldenberg & Culhane 2007). Based on the literature, the main socioeconomic variables that impact the birth weight of an infant are age of mother, age of father, race/ethnicity of mother and residency status of mother.

C. Teenage Birth Rates

The teenage birth rate has declined throughout the last century (Kost, Maddow-Zimet, & Arpaia 2017). The way in which the teenage birth rate is calculated is by taking the number of pregnancies per 1,000 women between the ages of 15-19. While looking at the teenage birthrate over the last 25 years there has been a drastic decrease by 63 percent, from 117.6 pregnancies per 1,000 women with the age range of 15-19 to 43.4 in 2013 (most recent data available) (Kost, Maddow-Zimet, & Arpaia 2017). Teenage births made up for 5.3 percent of births in 2016, where 89 percent of those births occurred outside of marriage (Martin et al. 2018). In 2016, the teen birth rate decreased by 9 percent from 2015. In 2015, the teen birth rate was 22.3, which was down 67 percent from 1991 when there was an all-time high of 61.8 percent (Martin et al. 2018). Based on prior research, the decrease in the teenage birth rate is due to increased awareness of necessary birth control used by teenagers and teenagers waiting to have sexual intercourse (Kost, Maddow-Zimet, & Arpaia 2017; Santelli et al. 2007). Table 1, which includes similar information from our dataset indicates that the teen birth rate has declined even further to 5.1% in 2017.

Based on prior research, in 2013, approximately 61 percent of the pregnancies to 15 to 19 year-olds in the U.S. resulted in a live birth; 15 percent of pregnancies resulted in miscarriage; and 25 percent of pregnancies were ended in an abortion. The abortion rate amongst teenagers is reported at an all-time low since abortion was made legal in 1973 (Kost, Maddow-Zimet, & Arpaia 2017). There was a spike in abortion in 1988, and there has been a 76 percent decrease since that initial spike (Kost, Maddow-Zimet, & Arpaia 2017). Between 1988 and 2005 the pregnancy rate for teens declined in all states. There was a spike from 2005 to 2008 where there was a decrease in the teen birth rate in 18 states, 5 states stayed at the same birth rate and 27 states saw an increase. From 2008 to 2013 there was yet another decrease in the teenage birth rate in all states (Kost, Maddow-Zimet, & Arpaia 2017). Thus, the number of previous live births and previous terminations of pregnancy do impact the probability of a teenager becoming a mother.

Teenage birth rates vary by age, race, ethnic group, and region of the country. While exploring age within the teenage child birthing, 74 percent of those births were for teens 18 to 19 years old in 2016 (Martin et al. 2018). Another factor that attributes to higher birth rates is ethnicity, the birth rates in Hispanic and black teenagers were higher than in white teenagers. In 2016, the birth rates for Hispanics were the highest at 31.9 births per 1,000 teenage females, followed by black teenage females (29.3) and finally by white teenage females (14.3) (Martin et al. 2018). In our study, we find that while white teenage mothers constitute 3.63% of all births to white mothers in the United States in 2017, the corresponding rates for black and Hispanic mothers are 7.24% and 7.78% (see Methodology and Data section for more details).

The estimation from a study in 2013 shows that 8% of white teenage females will give birth by the time they are 20, with the corresponding numbers being 16% and 17% for black and Hispanic teenage females (Office of Adolescent Health 2017). The birth rate for Hispanic teenagers is currently the highest, however it also shows the highest decline rate by 58%, compared to a decline of 53% for black and 47% for white teenagers (Martin et al. 2018). A quantitative study by Kost, Maddow-Zimet, & Arpaia (2017) explains that birth rates for teenage black women were consistently higher than Hispanics and white women since 1991, where black women had a higher birth rate by 36%. This began to change in 2004, when the birth rate for Hispanic teenage women grew.

Methodology and Data

The primary dependent variable in this study is the birth weight of the infant (*dbwt*) and an Ordinary Least Squares (OLS) regression analysis approach is used to identify the significant

factors. Based on the literature, the main socioeconomic variables that impact the birth weight of an infant are age of mother (*mager*), age of father (*fath_age*), race/ethnicity of mother (*mwhite*, *mblack*, *mhisp*, *m_otherrace*), race/ethnicity of father (*fwhite*, *fblack*, *fhispanic*, *f_otherrace*), educational attainment of mother (*meduc*), educational attainment of father (*feduc*), previous pregnancies (*priorlive*, *priordead*, *priorterm*), maternal smoking prior to pregnancy (*smoker*, *cig_0*), height of mother (*m_ht_in*), pre-pregnancy weight (*pwgt_r*) and body mass index (*bmi*) of mother, presence of risk or infection factors (*no_infec*, *no_risks*), ability to pay for care (*pay_rec*), receiving prenatal care (*precare*, *previs*), residency status of mother (*restates*), marital status (*dmar*), and the biological variables are the length of gestation (*combgest*) and sex (*sex_baby*) of the infant. Even though *income* is a significant contributor to a child's birthweight as demonstrated in the literature, our study is omitting this variable because the National Natality Dataset (National Center for Health Statistics (NCHS), 2018) used for our quantitative model does not provide this information publicly. Thus, our base model, Model 1 is as follows:

$$\begin{aligned} dbwt = & \beta_0 + \beta_1combgest + \beta_2sex_baby + \beta_3foreigner + \beta_4dmar + \beta_5mager + \beta_6mwhite \\ & + \beta_7mblack + \beta_8mhisp + \beta_9meduc + \beta_{10}fager + \beta_{11}fwhite + \beta_{12}fblack \\ & + \beta_{13}fhispanic + \beta_{14}feduc + \beta_{15}m_ht_in + \beta_{16}bmi + \beta_{17}pwgt_r + \beta_{18}priorlive \\ & + \beta_{19}priordead + \beta_{20}priorterm + \beta_{21}precare + \beta_{22}previsits + \beta_{23}smoker \\ & + \beta_{24}cig_0 + \beta_{25}no_risks + \beta_{26}no_infec + \beta_{27}pay_rec + \beta_{28}wic_yes \\ & + \beta_{29}teenmom + \beta_{30}teendad + \varepsilon \end{aligned}$$

Since the focus of this paper is on the risks of teenage pregnancy, we estimate two separate models, Model 2 and Model 3, to compare the birth weight outcomes between non-teenage and teenage mothers along with Model 1. We remove the *teenmom* variable in these models since we are estimating these separately.

Estimating the probability of being a teenage mother is the next step in our methodology. We can calculate odds ratios for relevant by using a logistical model to show if some factors add to the increased odds of becoming a teenage mother, with special focus on race and ethnicity. Thus, we estimate Model 4 to calculate the log odds of *teenmom* with probability p to non-teen mother with probability of $(1-p)$ within our sample, by using a logistical model as follows:

$$\begin{aligned} \text{Log}\left(\frac{p}{1-p}\right) = & \beta_0 + \beta_1dmar + \beta_2meduc + \beta_3teendad + \beta_4fwhite + \beta_5fblack + \beta_6fhispanic \\ & + \beta_7feduc + \beta_8priorterm + \beta_9smoker + \beta_{10}no_risks + \beta_{11}no_infec + \varepsilon \end{aligned}$$

To separate out the effects by race, we estimate this model in three different parts 4a, 4b, and 4c to represent white mothers, black mothers, and Hispanic mothers, respectively.

Data for this study is obtained from the Center for Disease Control (CDC) that maintains natality datasets for public use (National Center for Health Statistics (NCHS) 2018). The birth records for the year 2017 are used to represent the population of all births in the USA in the year 2017. About 3.8 million babies were born in the United States in 2017 and all of them have been included in this dataset. Based on the data, the racial and ethnicity-based distribution of teenage versus non-teenage pregnancies are shown in Table 2.

As we can see from Table 2, the incidence of teenage pregnancy is extremely high among non-Hispanic black and Hispanic mothers. For the sake of convenience, we will be merging non-Hispanic AIAN, non-Hispanic Asian, non-Hispanic NHOPI, non-Hispanic multi-race, and racial origin unknown mothers into one category of "other races," even though their characteristics are markedly different. Table 3 presents the Summary Statistics for the primary variables used in this analysis, and we will begin with discussing these in the Results section. Within the variables mentioned in Table 3, it is hypothesized that there will be a statistically significant relationship between the independent variables and the dependent variables and that these variables are indeed the prominent determinants of birth weight outcomes. This study tries to fill the gap of including a

large base of variables and utilizes recent data to understand whether the variables listed above have any statistically significant impact in birth weight of infants. We also hypothesize that there are some key factors within these variables that will contribute to the increased probability of a teenage pregnancy based upon the history, characteristics, and choices of mothers.

Table 2. Distribution of Births to Teen and Non-teen Mothers based on Race and Ethnicity in 2017

Race/Ethnicity of Mother	Non-Teen Moms		Teen Moms		Total
	Number	Percentage	Number	Percentage	
non-Hispanic White	1,921,051	96.37%	72,261	3.63%	1,993,312
non-Hispanic Black	520,662	92.76%	40,635	7.24%	561,297
Hispanic	835,501	92.22%	70,497	7.78%	905,998
non-Hispanic AIAN	27,049	90.26%	2,918	9.74%	29,967
non-Hispanic Asian	247,879	99.30%	1,737	0.70%	249,616
non-Hispanic NHOPI	8,943	94.78%	493	5.22%	9,436
non-Hispanic multi-race	75,389	91.43%	7,066	8.57%	82,455
Origin unknown	31,598	96.71%	1,075	3.29%	32,673
Total	3,668,072	94.91%	196,682	5.09%	3,864,754

Source: National Natality Data Set 2016-17, NCHS (2018)

Results of Data Analysis

For estimating our models, we have used STATA version 15.0. As we can see in Table 3, 51.6% of the mothers in our sample are white, 14.5% are black, and 23.4% are Hispanic. Moreover, the average age of a mother in the United States in 2017 was 28.85 years and only 2% of the mothers were primarily residing in foreign countries, who were only present in the United States at the time of birth, resulting in a local birth.

The education variables for mother and father have been split into 9 categories, with 0 representing unknown level of education, 1 representing less than 8th grade, 2 representing between 9th and 12th grade, 3 representing completion of high school diploma/GED, 4 representing some college credits, 5 representing Associate's Degree, 6 representing Bachelor's degree, 7 representing Master's degree, and 8 representing a Doctoral degree. The average education level in our data set is about 4.2 for mothers and 3.64 for fathers with standard deviations of 1.79 and 2.19, respectively indicating that about 67% of the mothers have between 9th and 12th grade education on the lower end and a bachelor's degree on the higher end. A curious result from this dataset is that only about 60% of the mothers in the United States are married. The average number of prior living children to each mother who gave birth in the United States in 2017 is 1.135 and on an average each woman has had 0.42 prior pregnancy terminations. It is important to note that these terminations can be a result of natural or induced abortions, and therefore should not be taken in any other spirit.

69% of the mothers in our sample showed that they did not have any risk factors and 97.3% reported no infections during pregnancy. On an average, women seek prenatal care in the third month of pregnancy and average about 11.3 visits during their pregnancy to seek prenatal care. About 37.6% of the women got Women with Infants and Children (WIC) assistance in the United States in 2017, indicating a heavy reliance on welfare in the country for child-rearing.

The dependent variables show that the average birth weight in 2017 was about 3262 grams (approximately 7.19 lbs) and the average pregnancy lasted about 38.6 weeks of gestation. 51.2% of the babies born in 2017 were males. As we have observed before, 5.1% of the mothers in the United States were teenagers (between 12 and 19 years of age, inclusive), which raises the question of identifying what contributes to these teenage pregnancies. Table 4 shows the results of estimating Models 1, 2, and 3 with birthweight as the dependent variable and applying an OLS regression analysis approach.

There are about 30 variables that were included in this analysis. For the sake of precision, let us focus on some key variables with attention to the differences between Model 2 and Model 3

results to identify if the impacts of these factors are different on teenage mothers or not. The birthweight of infant increases by about 125 grams for each additional week of gestation for non-teen mothers as compared to only 104 grams for teenage mothers. The sex of the baby does not affect birthweight of the baby in teenage mothers to the same extent as it does in non-teen mothers.

Table 3. Summary Statistics for Primary Variables Used in the Analysis

Var Name	Variable Description	Obs	Mean	Std. Dev.	Min	Max
Maternal Characteristics						
teenmom	1 if mother is a teenager, 0 otherwise	3,864,754	0.051	0.220	0	1
mager	Mother's Single Years of Age	3,864,754	28.847	5.815	12	50
mracehisp	Mother's Race/Hispanic Origin	3,864,754	2.869	2.507	0	7
foreigner	1 if foreigner, 0 otherwise	3,864,754	0.020	0.150	0	1
dmar	Marital Status	3,391,934	0.599	0.490	0	1
meduc	Mother's Education	3,864,754	4.268	1.792	0	8
m_ht_in	Mother's Height in Total Inches 30-78	3,842,791	64.129	2.837	30	78
bmi	Body Mass Index 13.0-69.9	3,767,370	26.974	6.701	13	68.9
pwgt_r	Pre-pregnancy Weight in lbs. 075-375	3,778,180	157.988	41.578	75	375
mhisp	1 if only Hispanic origin, 0 otherwise	3,864,754	0.234	0.424	0	1
mblack	1 if only Black origin, 0 otherwise	3,864,754	0.145	0.352	0	1
mwhite	1 if only White origin, 0 otherwise	3,864,754	0.516	0.500	0	1
Paternal Characteristics						
teendad	1 if father is a teenager, 0 otherwise	3,864,754	0.017	0.131	0	1
fath_age	Father's Age	3,864,753	4.351	2.057	0	10
fwhite	1 if only White origin, 0 otherwise	3,864,754	0.460	0.500	0	1
fblack	1 if only Black origin, 0 otherwise	3,864,754	0.120	0.320	0	1
fhispanic	1 if only Hispanic origin, 0 otherwise	3,864,754	0.200	0.400	0	1
feduc	Father's Education	3,864,754	3.642	2.191	0	8
Childbearing History of Mother						
priorlive	Prior Births Now Living	3,858,328	1.135	1.298	0	23
priordead	Prior Births Now Dead	3,855,605	0.016	0.188	0	15
priorterm	Prior Other Terminations	3,853,506	0.422	0.886	0	28
Maternal Behaviors Before Pregnancy						
cig_0	Cigarettes daily Before Pregnancy	3,845,611	1.176	4.841	0	98
smoker	1 if smoking before pregnancy, 0 otherwise	3,864,754	0.094	0.292	0	1
Maternal Factors/Choices During Pregnancy						
no_risks	1 if No Risk Factors Reported, 0 otherwise	3,860,968	0.699	0.459	0	1
no_infec	1 if No Infections Reported, 0 otherwise	3,854,655	0.973	0.163	0	1
precare	Month Prenatal Care Began	3,766,014	2.898	1.529	0	10
previs	Number of Prenatal Visits	3,766,768	11.290	4.198	0	98
pay_rec	Payment type	3,864,754	1.680	0.737	0	4
wic_yes	1 if receiving wic, 0 otherwise	3,864,754	0.376	0.484	0	1
Birth Outcomes of Pregnancy in 2017						
dbwt	Birth Weight -- in Grams 0227-8165	3,861,721	3262.134	592.202	227	8165
combgest	Combined Gestation -- in Weeks 17-47	3,861,926	38.602	2.487	17	47
sex_baby	1 if Male, 0 if Female	3,864,754	0.512	0.500	0	1

Source: National Natality Data Set 2016-17, NCHS (2018)

Marriage does not have a significant impact on birthweight among teenage mothers, which is in line with the reality that these are young mothers, often not planning to have a baby unlike older women. While age of mother does not significantly affect birthweight of baby in non-teen mothers,

for each additional year of age, the children are marginally lighter among teenage mothers. This can be a result of the correlations between the age and level of education variables in our model.

Race and ethnicity play a pretty significant role for all mothers. White and Hispanic mothers have heavier babies than the other mothers (omitted category) but black mothers have babies that are almost 114 grams lighter in non-teen mothers and 137 grams lighter in teen mothers. That is almost a 3% difference! Each additional year of education improves the birthweights of the children. Prior terminations have a bigger impact on teenage mothers as compared to non-teen mothers, even though the measured impact is extremely low.

Table 4. Base OLS Regression Models with Dependent Variable: Birthweight

Dependent Var: Birth Weight (gms)	Model 1: All moms		Model 2: Non-Teen Moms		Model 3: Teen Moms	
	Coefficient	t-stat	Coefficient	t-stat	Coefficient	t-stat
Constant	-4040.386	-161.00	-4085.970	-158.02	-3380.619	-30.42
combgest	123.665	1117.80	125.020	1090.80	104.700	249.31
sex_baby	128.360	242.93	129.537	238.51	107.594	47.57
foreigner	-23.905	-14.37	-22.794	-13.42	-51.088	-6.31
dmar	15.278	21.55	14.725	20.38	7.353	1.89 *
mager	-0.006	-0.08 *	0.032	0.46 *	-10.001	-8.39
mwhite	28.925	24.74	27.699	22.97	17.481	3.49
mblack	-113.728	-81.91	-114.171	-79.00	-137.229	-25.84
mhispanic	42.136	31.46	42.624	30.62	8.299	1.58
meduc	3.223	14.08	3.157	13.63	5.052	2.87
fager	-0.400	-1.81 *	-0.552	-2.47	-1.003	-0.66 *
fwhite	63.742	59.25	67.548	60.84	11.240	2.15
fblack	15.948	12.05	19.875	14.45	-29.136	-5.05
fhispanic	31.682	25.45	35.546	27.40	-8.617	-1.61 *
feduc	1.494	7.09	1.477	6.92	6.161	4.05
m_ht_in	30.053	78.01	29.945	75.48	33.407	19.60
bmi	12.896	29.23	12.683	28.00	19.419	9.37
pwgt_r	-0.726	-9.74	-0.687	-8.97	-1.847	-5.18
priorlive	33.634	141.51	33.665	140.86	36.612	13.85
priordead	-17.328	-12.38	-16.932	-12.04	-27.833	-1.81 *
priorterm	-6.845	-22.64	-6.652	-21.87	-10.966	-3.69
precare	18.008	97.39	17.466	90.64	24.503	37.66
previsits	8.263	117.29	8.057	111.11	11.632	39.28
smoker	-90.411	-63.12	-91.777	-61.61	-57.365	-11.02
cig_0	-2.756	-33.32	-2.804	-32.51	-1.868	-6.49
no_risks	29.251	48.31	27.711	45.03	60.973	17.79
no_infec	21.697	13.56	23.537	13.58	11.788	2.86
pay_rec	13.172	32.75	13.304	32.02	8.568	5.39
wic_yes	-6.596	-9.97	-7.031	-10.26	5.788	2.26
teenmom	-0.030	-0.02 *				
teendad	-8.563	-3.79	-14.788	-3.59	2.964	0.95 *
Number of obs.	3,179,851		3,014,290		165,561	
R-squared	0.358		0.358		0.351	

*Not statistically significant at 0.05 level

Source: National Natality Data Set 2016-17, NCHS (2018)

Prenatal care increases the birth outcomes for children of all types of mothers but has a clearly higher impact on teenage mothers' children. Smoking is correlated with a worse birth outcome for the infant, but surprisingly the impact is lower in teenage mothers as compared to non-teen mothers. This is probably because teenagers are less likely to smoke on a regular basis as compared to non-

teenagers. Teenage mothers also show a better impact on their infants' birthweights due to the potential for lower risks to health. One of the most interesting results, that directly pertains to our policy angle is the access to WIC. Being enrolled in WIC has a negative impact on birthweights in non-teen mothers, while it has a positive impact on birthweights in teen mothers. It raises a question, that is beyond the scope of this paper, regarding whether access to WIC and similar programs increases the probability of teenage childbearing in the United States because of lowered personal opportunity costs.

Given that we have more than 3.8 million observations, it is not surprising that almost all the factors we identified in our simple OLS regression analysis were significant, due to the reduced internal threats to validity and avoidance of statistical errors such as multicollinearity and heteroskedasticity that would be a concern in smaller datasets. The R-squared values from all three models show that we can only determine about 35% of the variation in birthweights using these variables. The results of the logistical models estimated to test the determinants of teenage childbearing are shown in Table 5.

Model 5a refers to white mothers, Model 5b refers to black mothers, and Model 5c refers to Hispanic mothers in our dataset. The interpretation of Odds Ratios and their significance has to be done with care. The Odds Ratio (OR) is the ratio of the probability of being a *teenmom* to the probability of not being a *teenmom* in any given sample. For dichotomous independent variables, the Odds Ratio simply gives the difference between the two values of the dichotomous variable. For instance, the variable *dmar* has an odds ratio of 0.166 and a z-value of -142.75 in Model 5a. Thus, the odds that a married white woman is a teenage mother are lower by 0.166 than that of a non-married white woman being a teenage mother. The corresponding OR for black and Hispanic women show that being married decreases the odds by 0.106 for black women and 0.251 for Hispanic women. It is important to remember that teenagers are not necessarily thinking of getting married at that stage in their lives, however the results do show that being married lowers the odds of being a teenage mother, all else being held constant.

Table 5. Odds Ratios for Teenmom by Race/Ethnicity

Dependent Var: Teenmom	Model 4a: white moms		Model 4b: black moms		Model 4c: Hispanic moms	
	Odds Ratio	z	Odds Ratio	z	Odds Ratio	z
Constant	1.584	17.72	2.148	26.47	0.693	-12.99
dmar	0.166	-142.75	0.106	-63.72	0.251	-92.54
meduc	0.430	-176.51	0.424	-124.16	0.632	-88.89
teendad	31.326	195.44	31.212	130.16	41.013	187.77
fwhite	0.808	-13.49	0.763	-4.86	0.426	-29.58
fblack	0.837	-6.78	0.596	-19.29	0.535	-19.18
fhispanic	0.875	-5.73	0.908	-1.87 *	0.406	-55.76
feduc	0.899	-23.87	0.957	-5.51	1.001	0.27 *
priorterm	0.417	-81.13	0.371	-66.99	0.386	-68.19
smoker	0.616	-44.23	0.343	-38.73	0.689	-13.04
no_risks	2.299	65.75	2.629	58.94	2.876	70.74
no_infec	0.875	-6.74	0.488	-38.03	0.529	-28.98
Number of obs.	1,854,826		534,062		680,681	
Pseudo-R2	0.407		0.3321		0.3122	

*Not statistically significant at 0.05 level

Source: National Natality Data Set 2016-17, NCHS (2018)

On the other hand, for continuous variables, such as education (*meduc*), each additional category of education (ranging from 0 to 8) reduces the odds of being a teenage mother by 0.43 for white women, 0.42 for black women, and 0.65 for Hispanic women, all other characteristics being the same. Prior terminations of pregnancy also reduce the odds of being a teenage mother for all the

three models. The race and ethnicity variables for fathers of the infants indicate that as compared to “unknown” or other fathers, the odds of a teenage mother go down for all three models. This can be taken to imply something more significant than it seems on the face value. The mothers that are unable or unwilling to give the information about the baby’s father on the birth certificates are more likely to be teenagers than not. This implies that even during teenage years, girls in more stable relationships are less likely to become teenage mothers. Of course, part of this is speculation but part of it is because if the father’s race and ethnicity and information are known, there is a lower probability of teenage childbearing.

On a lighter note, being a smoker reduces the odds of being a teenage mother as well based on the model results. However, to imply that it means that people should encourage teenagers to smoke would be a foolish conclusion to draw. Since the dataset heavily favors non-teen mothers, and only about 9% of all women were smokers prior to pregnancy based on the self-reported information, this result is not very meaningful in real terms. Having no health risks increases the OR for teenage pregnancy, which is not that surprising considering that teenagers tend to be healthier than older women in terms of having lower health risks to begin with.

The most crucial and sizeable impact on the OR is that of having a teendad! Assumedly, non-teenage women are not likely to date teenage boys. Therefore, “having a teen dad increases the probability of having a teen mom” does not necessarily need any data or analysis to state. However, the OR increases by 31 for white and black women, and a whole 41 for Hispanic women. This brings us back to the problem of teenagers in relationships resulting in teenage pregnancies and childbearing. Early sex education, continuing support, and access to birth control can help with reducing the incidence of teenage pregnancy in the United States even more.

Conclusions and Implications for Texas Policy

About 1.8 million out of the 3.8 million women in our dataset are non-Hispanic white, about 534,000 are non-Hispanic black, and about 680,000 are Hispanic. Like we saw in Table 2, the incidence of teenage pregnancy is much higher within black and Hispanic mothers, in terms of percentages. Policies that focus on the causes of racial and ethnic propensity towards early childbearing can help reduce some of the teenage childbearing issues as well.

On the whole, our results indicate that teenagers who become mothers have distinct characteristics, partner choices, maternal behaviors, and choices during and before pregnancy that play a crucial role in how their life shapes out to be. While the short-term impacts on the babies are not negative in terms of gestation and birthweight, the long-term impacts of children born to children must be studied more carefully. Policies that focus on addressable issues that can help to reduce the probabilities of teenage childbearing can be enforced at local, state, or national levels. While programs such as WIC and prenatal assistance for teenage and young mothers help them remain healthy and out of poverty, it is also important to try and identify if the availability of these options is not increasing the propensity for teenagers to have children earlier in life before they can personally provide for their families themselves.

The demographic breakout in Texas is different than the rest of the United States. In Texas the population is comprised of 43% white, 38% percent Hispanic, 12% black and the remaining are compromised of Asian, mixed, and other races. Compared to the demographic breakout within the United States of 62% percent white, 17% Hispanic and 13% black and the remaining are compromised of Asian, mixed, and other races. This type of demographic comparison can help policy makers in any state understand the audience and tailor policies to reduce the probability of teenage pregnancy. Our results show that black and Hispanic women have a 3-4% higher probability of being a teenage mother as compared to the white women. Not only are black and Hispanic women more likely to become a teenage mother, they are more likely to have a lower birth weight child, as demonstrated in the literature review and from our dataset.

With these findings it is important that states are careful and design policies to directly target the black and Hispanic populations to reduce the probability of teenage childbearing. A

recommendation could be a federally funded abstinence or safe-sex education program with added support in areas of higher concentration of black and Hispanic children that states can enforce differently based upon their own demographic compositions. For instance, this would require a state such as Texas to outline the goals and plans of how to prevent and reduce the number of teenage pregnancies, considering that white is the minority population in the state. Prior research done to prove the effectiveness of such policies (Horvath and Peters 1999; Ryan, Manlove & Hofferth 2006) has mixed results, where only some research shows a significant relationship between non-marital fertility and welfare agreements. Thus, states in the US should focus on the welfare policies and teen childbearing to enhance early prevention education.

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And Yet the Black Sea Can Be an Essential Geostrategic Pivot in the Solution of Euro-Asiatic Endogenous Conflictuality

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ABSTRACT: One of the geopolitical and geostrategic synthesis key areas on the strategic axis Black Sea - Baltic Sea reluctance re-opened following the Ukrainian crisis is the more or less extensive Black Sea region. The historical, political, economic and civilian arguments, as well as the new challenges of the regional security environment, but also cross-border and global, leave the great powers on both sides of the strategic axis Black Sea - Baltic and riparian countries a chance that we consider not only an alternative to ... war, otherness, but also a way of transforming divergences into confluences and confluence in unity, prosperity and security. Even though the complicated and tense realities at this point seem not to encourage such a prospect, we believe that the Black Sea area can become – and indeed become – an East-West welding space, a true geopolitical and geostrategic, economic, social synapse and inter-civilization, which will put an end to the strategic flaw effect here in bitter weather. In the following, we will present this point of view.

KEYWORDS: Black Sea, confluence, connection, divergence, geopolitical and geostrategic pivot

Introduction

Although the progress of human society is immense, the essence of our world - its endogenous conflictuality - has not changed. Basically, it remains the same. We think of the end of the universe, but we hang every day between normality, abnormality, crisis and war. Moreover, it seems that war – the act of extreme sacrifice, but also of chivalry and heroism once committed with honor in the name of vital interest – has been subtly but tenaciously converted into perverse policies and perverse strategies in which the stratagem takes more and more the place of direct and wise strategies. At the same time, the war came out of its own limits - that of being a continuation of politics by violent means, as Clausewitz wrote -, becoming a hybrid, continuous, flexible geometry, and often with unpredictable, even chaotic developments. Practically, the war encompassed all of humanity with all its fields, from economic, political and military, to cognitive. Under these conditions, at least within a reasonable time, and beyond, it is hard to assume that mankind will ever be able to return to the springs and clear its becoming.

Dangers and threats are both solid and subtle, predictable and unpredictable, organized and chaotic, parable and impartial, rigid and flexible, visible and invisible, etc. These have expanded and developed enormously with the expansion of knowledge processes, high technology, nanotechnology, and IT globalization. Silent Western Europe, after the millennia of conflict and wars, colonial conquests and terrible internal tortures, freedom with forceps, and excuse with the great eyewitness in which it has survived and dramatically survived, is again troubled by, on the one hand, its internal conflicts, never fully solved by the lack of a common ideal of all Europeans, of unacceptable strategies and stratagems for the civilization identities of the states but placed on the wallpaper of Brussels and, on the other hand, of the massive migration of part of the world millions of Muslims in the metropolises that once ruled the world and which, after the Second World War, seemed to have gone to an elegant and aristocratic pension.

But from time to time, nothing is, and can no longer be, as before. Western policies and strategies towards the Middle East and especially the Near and North Africa – essentially destabilizing and shattering the identities there, in order to be more easily dominated, or simply to give them they prove to be not only bankrupt, but also extremely dangerous, even for those who have generated them, less for the United States, which, after the terrible September 11, has taken very serious measures for its own security. The direct and most terrible effects of these policies and strategies, to which, of course, the recrudescence of unprecedented virulence and aggression in the

Muslim world, namely, in Muslim extremism seem to have deeply and very seriously deepened the gap between this Muslim-Arabic and Western civilization, more precisely, the group of Western civilizations, but also the oriental civilization, especially the one that is largely identified with Russia. In other words, Muslim extremism is in a terrible asymmetric war, both with Western civilization and with Russia, but also with the “unbelievers” of its own city. This is how, in the present days, it has emerged under the Western eyes of the West, but also of the Muslims, the Islamic State – a terrorist warfare formation that does not want any more than to restore the caliphate to a huge scale and even to it extends beyond the borders of China and the Far East and even beyond the European and Asian continents.

This extremely serious geopolitical and geostrategic situation has never had such an extent in the history of the world. And even if the civilization of knowledge goes ahead and its progress is amazing, the world’s war against the world - which is not a mere metaphor, but a subtle and at the same time boorish reality – develops non-linearly and even chaotically, and this he feels most worrying here at the Pontus-Euxin, on our coast, in Romania and in the other riparian countries.

Is there any possible geopolitical and geostrategic harmony in the Black Sea?

One of the major themes we have approached over the years, both in the scientific debate on geopolitics of the Black Sea and in the pages of the magazine “Strategic Universe” (<http://iss.ucdc.ro/revista.html>), targeted and aimed at precisely studying the conditions and parameters of a possible connection of law and fact in the area of the secular strategic fault in the Black Sea region and on the Black Sea - Baltic Sea axis. Of course, not for the sake of civilization confluences and universal harmony, but rather for the generation of a new geopolitical paradigm, based on complex and durable connections, not on faults, on cooperation rather than on confrontation and on strategic and tactical forces, on the war (Bodansky 2010, 142-165).

At one point, there seemed to be extremely favorable conditions for such a thing, and the visions of that time could only be optimistic. In fact, after the implosion of communism and, in a way, the completion of a certain stage of the process of de-tensioning East-West relations, the ideological fault disappeared, even though there were many remaining repercussions, and the waiting horizon in political, societal, and inter-civilization, or, in any case, it had begun to be increasingly lacking in the storms of history.

In 1991, on the initiative of Turkey, the Black Sea Economic Cooperation Organization was established, and in the years to come, the Eastern Partnership of the European Union (Belarus, Ukraine, Moldova, Georgia, Azerbaijan and Armenia) was created, the synergy of the Sea Black Sea, Black Sea Naval Force in 2001 (Turkey, Romania, Bulgaria, Georgia) and other structures designed to implement new European, Euro-Atlantic and Euro-Asian cooperation mechanisms and crisis and conflict management, drug trafficking routes, weapons, strategic material and living flesh, etc. in one of the most sensitive and enigmatic places on planet Earth.

Despite the crises that have occurred in the region (the wars in Yugoslavia, the tensions and conflicts in the Western Balkans, the crisis in Chechnya, the crisis in Transnistria and the Caucasus), the actual cooperation in the Black Sea region seemed to take place in - normally beneficial for both the countries in the area and the area of contact between the two continents of the three categories of civilization (Western, Orthodox and Muslim) to use the language of Samuel P. Huntington in his famous work *The clash of civilizations ...* for the European Union, for NATO, for Russia, and even for the Middle East and Middle East countries, located in the second and third circles of strategic interest of the area, viewed from the point of view of the Romanian space .

Of course, all these bloody and dramatic conflicts have and still have contributed to the degradation of the regional and international security environment, but the freezing of these conflicts and the de facto acceptance of their effects in anticipation of better solutions or that of the *Tempus edax rerum*, offered a chance (quite frail, but still a chance) to renormalize the situation in the Balkans, the Caucasus and the Republic of Moldova and to achieve good cooperation in the Black Sea. It was, of course, an illusion.

Through the wars in Yugoslavia, the conflicts in the Caucasus and Transnistria, Chechnya, and terrorist attacks in Turkey, the Caucasus, Moscow and some European capitals, the conflict in the Black Sea region has also been re-energized, beyond that, the geopolitical and geostrategic components were immediately activated.

In a certain way, the disturbing former foyer, that is to say the area that stretches between the Caspian Sea and the Far East, has come back into play, but not in the traditional sense of migrating the warrior populations to the West, but in the opening, the same formerly migratory corridors including the Silk Road route, clandestine shipping routes from Afghanistan, weapons from major East and other oil companies, and other materials of strategic importance. As a matter of fact, the area was conflicting, and the great arms producers found in this reality a market that they exploited and still exploits by all legal or illegal means (Degeratu, Tudose and Văduva, 2012; Popescu and Văduva 2016, 134-172).

Suddenly, the geopolitical, geostrategic, geo-economic and geo-invasive stake of the Black Sea region grew enormously and the chance of confluence and connection diminished a lot. And here's why:

a) The geopolitical and geostrategic component. The European Union, in its neighborhood and enlargement policies towards the East, has accepted a proposal for the establishment of the Eastern Partnership and has immediately gone to the facts. Russia perceives this European Union policy as an expansion in its immediate strategic security area, an area known to the Eastern Eurasian Empire, located outside the borders of Russia, in border countries, especially in Ukraine, Belarus, Baltic and Caucasian countries (to counter the threats in the West). Since that time, Russia has intensively accelerated its modernization programs, further to the strategic nuclear forces (endowment with the new-generation ballistic missiles Topol and Topol M etc.), the naval forces of the four fleets and, of course, of ground forces. Moscow's official positions show that Russia has perceived the Eastern Partnership as well as NATO and EU enlargement policies and strategies on behalf of some Caucasus countries, Ukraine and the Republic of Moldova, and the policy of placing and strengthening US military bases near its borders as a threat. In its security strategies, Russia has explicitly formulated this. The way NATO summit in Bucharest 2008 is taking place and the Russian military intervention in Georgia is the first response given by Russia to what the Kremlin understood to follow the West. And then, on the other side of the Black Sea the Baltic Sea, the first devices have already been formed in one form or another. For starters, only in the project. The geopolitical dimension has thus generated the first geostrategic sketches, for the time being well-camouflaged by the Russia-EU Partnership and Cooperation Agreement, the NATO-Russia Council, the Partnership for Peace and other forms of Eastern Partnership and Cooperation -West. The location of the US missile shield at Deveselu, the activation of the Kogălniceanu military base at the disposal of the Americans, the other facilities made by Romania in the framework of the Romanian-American strategic partnership, plus the ones made by Poland, the Czech Republic and the Baltic States were perceived by Russia, as the Kremlin has officially declared on a number of occasions as a threat to Russia. Of course, between the position of Russia, on the one hand, and that of the European Union and NATO, on the other hand, a kind of rupture was created, and what followed - and in the very collaborative and partnership meetings Russia- EU, and within the NATO-Russia Council - has become a kind of deaf dialogue.

However, the summit in Vilnius of the Eastern Partnership was the culmination of the tightening of the West-Russia relations. Georgia, Armenia and the Republic of Moldova signed the agreement there, and Ukraine postponed this decision. As a result, in *Maidan*, the *Maidan* phenomenon, supported, at least tacitly, by the West, and staring with Eastern concern, that is, Russia. The reaction of Russia was terrible. It followed the annexation of the Crimea, through a referendum, following the model of Kosovo, then the outbreak of the war in the East of Ukraine. A terrible, hybrid format, but, in essence, extremely virulent, which blew again the land of Don and, implicitly, the European one. Kiev is only 700 km away from Moscow, and Russia interpreted the attitude of the new Kiev and Western leadership as a gathering of the Western, especially American, circle around its territory as a new Anaconda strategy, according to policies and Cold

War Washington embankment strategies. Since that time, the Black Sea - Baltic Sea strategic flagship has been reopened, and Russia has stepped up its preparations for a possible war. But the war had already begun, through its political, economic, hybrid and, above all, cybernetic forms. The geopolitical stake is huge, as the vital interests facing the area are centuries old and their sheep formulas cause earthquakes in the minds of any man on Earth. The largest nuclear powers of the Planet are again on one side and the other of a steel and oil curtain.

During this time, by surprise, Russia was a strategic expeditionary force and intervened in the strategic corridor of Caspian, Iran, Iraq, Syria, a corridor adjacent to the Mediterranean, strongly striking opponents of Bashar al-Assad and the Islamic State. This strategic offensive attitude of Russia, a great power that, since the strategic maritime maneuver of 1905, through which the Russian flora in the Baltic has bypassed half of the earth globe and entered into the ambush of Admiral Togo at Tushima, has never come out of its space direct strategic security, seemed incomprehensible. But the warning has already been given. All the nuclear ogres on the planet have reintroduced their targets. And the cure of strategic arms with high tech and robotics has been redeployed. The vast majority of countries on Earth, except Romania, are arming. When the spark occurs, the civilization of the hominids will jump in the air.

b) The geo-economic component. Russia owns more than 60 percent of the planet's energy and water resources but has a population of only 142 million. Western Europe is still dependent on the natural gas resources in Russia and is transported by Russian pipelines to the European Union, and the issue of getting out of this unilateralism favoring the Eurasian power in the East (Russia uses the energy transport network and its resources on a real geo-energy weapon) is still difficult. In order to stop Russia from its geostrategic impetus, the United States and the European Union have launched a series of economic sanctions, during which Russia has strengthened its ties with China and India within the BRICS, as well as its partnership with China within the framework of the Cooperation Organization from Shanghai. Several years ago, with German aid, Russia completed the North Stream trans-Baltic pipeline program, which is transporting Russian energy resources to Germany and the countries on the route, significantly reducing the value of gas pipelines passing through Ukraine. The South Stream pipeline program on the Black Sea strategic corridor, although postponed by the Ukrainian war and the increasing tensions in the Black Sea, has not been completely abandoned. After the Russian air force Suhoi-24 was shot down in summer by the Turkish Air Force, for raping Russia's territory for a few seconds, Russia threatened to interrupt the construction of the energy transport pipeline would be in Turkey. But eventually, Moscow and Ankara - the two great poles in the Black Sea, the enemies of the past centuries, and the main actors of the geopolitical and geostrategic space of the Black Sea - have again given their hand. But it does not follow that the battle for the huge Russian resources as well as for the Arctic Ocean has come to an end, but it has just begun. Resources are, in fact, the great political, geopolitical and geostrategic space of the Black Sea. The Black Sea, the Caspian Sea, Central Asia, Siberia and the Far East are part of the Planet's Great Geo-energetic Corridor, and the main battle will probably be here in the Black Sea. And if things are so - and it is quite clear that this is the case - then can it be possible to reconcile these major strategic corridors into a Eurasian pivot of the Black Sea? Who and why could they have such an interest, when the current tendencies are to divide, shake and shake the parts so that they can never constitute a whole? (Frunzeti, Mureşan and Văduva, 2009).

c) The geo-civilization component. Here things are even more complicated. The only standing and earthly civilization identity of the Black Sea space, as far as we know until this hour (in the sense that it has not come from nowhere, but it is from here on the earth), is the Romanian one. It differs from all others and cannot be framed in Slavic civilization, Muslim, or temporal, but only in the customs of the earth. Well, the Black Sea region shelters both the peoples who have lived here for thousands of years, and those who have come over them, merged with them or just cohabited, fought, etc. and so on. It can be said that in the Black Sea area, every present country represents a civilization identity that comes from the ancient world and has its values, customs, culture and life. It is right, in *Descriptio Moldaviae*, Cantemir wrote that there is no other region in Europe in which there is so much diversity and so many tribes together. This phrase says a lot. The peoples living in

this part of the world are living together, but they do not identify each other. On the contrary, the trend is to separate even more. And all the attempts that have been made so far to merge them, to make them one with the earth, have failed. Today, with the massive migration of Muslims to Europe, especially in Western Europe, it turns out again, if necessary, that Muslims are Muslims and Christian Christians, that Bulgarians are Bulgarians and Romanians, that Turks are Russians and Russians are Russians, etc.

Here, in this cultural space blessed by God and worn by men, cultural, linguistic, religious identities do not merge but continue at any cost to remain themselves. Moreover, at one point, it was rumored that one of Putin's geo-cultural goals would be to recreate the Constantinople of Christian civilization. We do not know whether Putin had ever thought and said it or not – the civilization boundaries once hard to be able to change – but the idea of a stable, perennial cultural identity despite the artificial and opportunistic multiculturalism that is being circulated today The European Union continues to recover. Of course, it is hoped that the new age of cogno-civilization could blur the differences and prevent cultural conflict, centered on information in real time, on the network and on cognition. But this does not necessarily mean that historical cultural identities will fade or disappear, but only that they will have a vast cultural-cognitive heritage (of common cognitive values) and some ancestral parameters of cultural identification on the water of the water upwards springs. Well, in the wider Black Sea region, despite the existence of great dictatorial and leveling empires for centuries, even millennia, specific cultures could not be either blurred or destroyed. But from here, the apodictic and even categorical conclusion that the parties can never form and integrate into a unitary, coherent and coherent one can not necessarily be removed. Then, how can we talk about a possible Euro-Asian geo-cultural and geo-civilization pivot?

The paradigm of essential geopolitical and geostrategic connections

The peoples and civilizations on the first circle of construct and strategic interest have lived here for centuries. They endured all the twists and turns of the times, barricaded themselves in the cities, fled to the mountains, at times of distress, entered the tunnels when daunting times came, fought with the invaders, but mostly formed and have preserved their value systems that have consolidated the foundation of their existence under the sun. These things cannot be changed as long as you hit your hands. And no one will accept to be changed because no one changes their lives and habits for the sake of change. And, anyway, these changes, if they take place, come from stringent needs and last for centuries. It takes time, for a long time. Whenever history, the sovereignty, independence, identity, and personality of these peoples have been attacked, so many times the lands have bled. People have lived, and many of them have died here, fighting for their freedom, security, prosperity and individuality and their countries. And even when the Black Sea area was under the rule of great empires, the civilization identities here kept their beliefs, symbols, phonemes, morphemes, semantics, that is, language, values, culture and civilization.

Therefore, a possible geopolitical, geostrategic, geo-economic and geo-civilization connection in this area, as anywhere in the world, cannot be achieved outside the preservation of these ancestral values and these civilization identities. And, after all, why would such connections be necessary? Are not they, if they will, reproducing, in new forms, more or less subtle, the empires of the past? Will the countries in the area accept such a perspective, since, since they were on Earth, they have fought for identity, freedom, security and prosperity? Did not the Austro-Hungarian Empire, the Ottoman Empire and the Tsarist Empire disappear on behalf of these identities? Not in the name of such an identity has the state of the South Slavs, in the last decade of the last century, collapsed, bloody and dramatically?

And questions about this can continue, because there are so many. All the connections to date from the modern age have not been achieved by destroying identities, but, on the contrary, by accentuating them. That is why globalization processes will not be able to pass over their identity, personality and the sovereignty of the states of law, with their leveled balancing, as the philosophy of crowd crowding civilization over human axiology cannot go beyond the individual value of man.

Man will always remain the human core of the Universe, as a country, no matter in what form and political regime it exists, will remain the civilization home of the people of planet Earth.

In conflict and fault areas, it is necessary to establish connection pairs on the basis of common ideals and common realities that enhance the strength, stability, security, freedom and prosperity of the area. Therefore, despite all the elements and realities that led to the reopening of the strategic Black Sea – Baltic Sea flagship and the stirring of the Black Sea spirits, we consider that the essential paradigm of the future of this region is the geopolitical and geostrategic connection, in this area, on the support political, economic, cultural and civilization, of all riparian and second-tier states, enhancing the capabilities and capabilities of the countries in the region, and blurring the endogenous and exogenous conflict that has existed for millennia here in favor of unity and completeness (Văduva, 2013). But unity and integration cannot be done by diminishing the value of the parties, that is to say the states of law, but by harmonizing their interests, on the basis of common values and those assembled in new and consistent systems of values. In this sense, the Black Sea has the value of a true strategic synapse in the sense that, in an area with so many problems, it ensures the interconnection of strong flows with economic, social, geopolitical and geostrategic effects, as well as the possibility of beneficial connections, especially economic and security, whereas:

- is part of the planet's essential energy corridor, made up of the space resources of Siberia and the Far East, Central Asia and the Caspian Sea, connected with the Middle East and the Persian Gulf;

- the Black Sea area itself is an area rich in energy resources that is very important for the countries of the region but also for the countries of the European Union;

- is part of the southern maritime strategic corridor (the Black Sea, the Bosphorus and the Dardanelles, the Marmara Sea, the Mediterranean Sea, ensuring the countries of this country exit to the warm ocean;

- is located in the opening area of the Danube's strategic corridor, connecting the Black Sea, through the Danube-Rhine-Rhine Navigation systems with the northern seas;

- substantially alleviates the effect of the fallacy on the Black Sea – Baltic Sea axis and can contribute to the de facto construction of the Euro-Asian unit, which is very important both for the access of countries on the great Eurasian geographic platform to the planet's resources and for the creation of a huge area stability, integrity and security in the most sensitive region of the Earth;

- may contribute to the redistribution of large lines of inter-civilizing force to ensure that two-thirds of the world's population behave better in the era of cognitive civilization and globalization.

Of course, such a pivot of the main Euro-Asian power lines (the Russian line, the Western European line, the Balkan line, the Middle East line, the Near East line and the North African line) could not only produce connections but also open new fronts in the battles for planetary power, especially for finances and resources, which is quite serious. But if this is not the case, we could further assist in accentuating the strategic flagship of the Black Sea – the Baltic Sea, to concentrate the forces of the East (Russia) and the West (US and NATO) on both sides of this and the emergence of apocalyptic scenarios, on the one hand, of the destruction by war of Russia in order to seize its energy resources, or, on the other hand, of preventive and preemptive action of Russia, a total spectrum, with all the military means at its disposal, including those of its huge nuclear force, either only partially and stratagemically, but with the same disastrous effects. Already circulate such visions and scenarios through different environments.

Beyond the scenarios, there are realities that, at any time, can degenerate into terrible confrontations on this huge Eurasian geographic platform. It is true that all the great powers of the world, and especially Russia, the United States, China and India, are arming. The political and strategic objective of this arming is not only in mutual discouragement, but also in a thorough and very concrete preparation for the last war of the planet or only for preemptive (but categorical and virulent) actions that can balance power to one of these great powers, or a support group for one or another of the powers with global strategic dominance. It is becoming increasingly clear that the world of power is moving towards such a horizon, not a peaceful and disarmed one.

The connection to the geopolitical and geostrategic area of the Black Sea could balance the world's power towards Eurasia, or in any case, it would improve current tensions and develop coherent policies and strategies to pull the area out of tension and provide riparian and all countries from here and across the platform a chance for security, freedom and sustainable development (Frunzeti 2010, 166-192).

Through the policies and strategies of cooperation and cooperation in the Black Sea, through the initiatives and attitudes of the countries here, important steps have been taken to justify such an inter-continental Euro-Asian and Inter-Civilization connection, but the events in Ukraine, the war in Syria, the turmoil in Turkey, the internal problems faced by all the countries here and many others have delayed the possibility of such a project for a while. But time is not over. For example, the construction of the planned Black Sea highways (around the Black Sea), the opening of the old Silk Road on new bases, the development of energy transport projects, the fight against separatist and conflictual excesses, the resolution of some outstanding issues left unresolved here for centuries, etc. and, above all, concentrating the constructive effort on the need to achieve a common geopolitical and geostrategic, geo-economic and geo-linking support, as well as the involvement of the European Union, NATO and all strategic partnerships in such a project, could correct on time which has never been corrected and not even considered significantly.

Conclusions

1. In the area where, perhaps more than nine millennia ago, probably Noah's flood occurred, and the planetary ocean through the Mediterranean passed through the Bosphorus and the Dardanelles and flooded over that remnant of the Tetis Sea, called the Black Sea today, is the time to re-occur a very large event that brings to the same mass with three geopolitical, geostrategic and inter-civilizing masses, the East and the West, the North and the South, the great powers and the great economic, cultural ideas and civilization. The small mass of the Black Sea can provide the framework and the case of a historical reconciliation, a geopolitical and geostrategic construction by which we can access together the new dimension of the civilization of knowledge and survival on the planet Earth.

2. The Black Sea, the place where so many events have happened over the millennia, even in the current conditions when NATO and Russia are on both sides of a line of fault, for mutual supervision, deterrence and even confrontation, when Syria is for over four years in a devastating war, when the great powers breathe the bullet through the pipe, can play a vital role in the parties' connection without destroying their history, life and, above all, identity and security. The Black Sea is like a synapse between Euro-Asian neurons, which can optimize the flow of communication and strategic wisdom so that we here change the rule and paradigm, from confrontation, to connection, from divergence to convergence. It is, of course, very difficult, as here, over time, divergences have prevailed over convergence, but we have remained together. And this is essential.

3. The Black Sea is the place where such geopolitical, geostrategic, geo-economic, geo-cultural and inter-civilization pivot can be generated. Turkey, Russia, Ukraine, Romania, Bulgaria and Georgia, countries in the first circle of the area, from the first geopolitical and geostrategic scale, have already taken important steps in this direction. The Black Sea Synergy depends to a large extent on the will of these countries, on how they build trust and sustainability. The connection of the parties and the realization of the geostrategic pivot of the Black Sea is first of all the competence and duty of the countries here.

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Formation of Post-conflict Georgian identities

Case: Abkhazian War and August War

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ABSTRACT: Modern Georgian history knows two devastating conflicts which happened in recent years bringing much confusion and disorientation to local Georgian Community. Given article tries to explore the identity crisis which took place after the two wars. As a result of military actions great number of people was obliged to leave their homes and move in temporary shelters. It took only several days to become IDP's (Internally Displaced Persons) from regular citizens. This naturally led to questioning the role of self in community. Such major events as mass trauma generally change the perception of reality and Georgia was no exception. In an attempt to overcome painful experiences individuals create different responses to traumatic experiences but we have the opportunity to compare two narratives depicting the emotions of IDPs from two different conflicts. Major aim of the article is to see whether there are any similarities between the perceptions of two different historical events: How IDPs explain the events and their own emotions.

KEYWORDS: War, Trauma, Coping, PTSD, Identity

Introduction and Literature Preview

The last ten years have shown growing interest of scholars towards the issues of trauma and post-conflict identity formation. More and more scientists understand the role of interdisciplinary approach in exploring the concepts and historical events. Therefore, cultural aspects became especially significant in war studies (Summerfield 2001, 78). In order to understand the profound link between the culture, identity and mass trauma, one should explain all the terms. Even though the definition of culture consists of more than 300 different definitions, we try to explore the concept with the most widespread explanation used by Merriam-Webster dictionary:

- “The customary beliefs, social forms and material traits of a racial, religious, or social group.
- Also: the characteristic features of everyday existence shared by people in a place or time.
- The integrated pattern of human knowledge, belief, and behaviour that depends upon the capacity for learning and transmitting knowledge to succeeding generation”.

All those definitions lead us to thinking that culture is a very complex and hard concept to grasp. It represents the matrix or the worldview where every person or the community tries to find itself. That is where identity appears: It supports the individual in finding the bonds with the past, identifying the links with present and helps in predicting the future position (Butler 2004, 20). Identity is widely seen as the individual's concept of self, as well as the individual's interpretation of the social definition of the self, within his/her inner group and larger society (Kim 2003, 6). Identity is a collective term for the roles, goals and values that people adopt in order to give their lives direction and purpose. Of course when traumatic event happens, it can disrupt these plans and alter our lives in unpredictable and sometimes permanent ways.

Mass traumas (collective traumas) are shocking, unexpected events happening in short time and changing the life of whole society by introducing the dimensions of fear, disorientation and destruction of old lifestyle. Such events affect large numbers of people either directly or indirectly. It is beyond the scope of individual traumatic experiences. Mass traumas include large-scale natural and human-caused disasters such as wars. Mass traumas may involve significant loss of property and lives as well as the widespread disruption of normal routines and services. Responding to such traumas often require immediate and extensive resources. Mass traumas can create an immediate sense of commonality – many people share the same experience (Kopstein, & White 2014, 12).

Our identity can shape the way we perceive, interpret and experience the trauma. Traumatic experiences can alter ones identity. Not only can our identity affect the way we perceive the event, but it can also shape the way we recover from the event. As noted above, trauma can disrupt one's

sense of identity, but on the other hand, one's identity can affect the way one perceives and recovers from the trauma. The trauma, however, can also become incorporated into one's identity. Trauma can be viewed as a turning point in life, or as a reference point for expectations about the future (Berman 2016).

Large-scale traumas are often referred to as "acts of God", or, in cases of other international events, as the "Act of Evil". Political terror and war are likely to have lasting consequences for survivors. In essence, anything that threatens the existence, beliefs, well-being or livelihood of a community, is likely to be experienced as traumatic by community members. When terrible things happen, it is human nature to assign blame. Trauma survivors can become heavily invested in assigning blame or finding out who was at fault, regardless of the type of trauma. Culture strongly influences the perceptions of trauma. For example, sudden death of a family member or loved one can be less traumatic in a culture that has a strong belief in a positive afterlife (Kopstein, White 2014, 10).

Under the stress, the forces that define "us" and "them" could quickly regress into the humiliating and killing of "others" and that large groups would respond at times with violence in order to erase the threats to their sense of "weness". Or, they would simply be murderous in order to maintain an illusion of superiority over those who they openly or secretly felt to be inferior or less human (Volkan 2012, 57). This act can be done symbolically, verbally or mentally as well in order to erase the threatening "others". This can explain the hatred towards the military opponents which posttraumatic narratives of Georgia depict. When the disaster fades from headlines, public attention and concern are likely to decrease, leaving survivors struggling to reestablish or reinvent their lives without much acknowledgement.

The concept of trauma is more complicated than the brief description. To simply label peoples as suffering from PTSD (Posttraumatic Stress Disorder – effect of traumatic event of society and individuals) takes our attention away from an examination of individual and specific responses to traumatic events. For example, some people deal with trauma through creativity, while others are doomed to repeat it in symbolic fashions. Still, others separate and put their traumatized selves, in a sense, in an envelope (called dissociation) and go about behaving as if nothing has happened (Volkan 2012, 54). Examples of dissociation could easily be seen in 2008 during the war days. Part of Georgian society refused to accept the fact of ongoing war and was preserving the familiar routine. The other part of the community was heavily criticizing the people who chose to dissociate themselves unconsciously.

Traumatic events that IDPs experienced come under the umbrella of shared trauma that are connected with ethnic sentiments and that activate large-group identity issues. Not all of the IDPs are traumatized as individuals; they were traumatized because they belong to a certain specific ethnic group; shared traumatic events, which are connected with large-group identity issues, are always contaminated with shame and humiliation. Such traumas are also accompanied by a combination of great emotional (abstract) and concrete losses, such as the loss of relatives or friends, homes, dogs and even gardens (Volkan 2012, 87). That can be the reason for persisting melancholy and nightmares recorded in IDPs. PTSD is undoubtedly connected with severe loss and stressful experience. On the other hand, it could be the sign for the people to start natural fighting for the new life.

Personal growth after PTSD and changes in personality became especially interesting for scholars during the last 20 years. Phenomenon related to growth connected with PTSD was defined in literature with different terms: Stress-related growth, transformation, conscious benefit etc (Tedeschi and Calhoun 2004, 5). Stress-related growth is connected to social support, which helps individual in sharing the experience and exploring the positive aspects of negative event.

During the last ten years due to two large-scale military conflicts (1991-1993, 2008) Georgia ended up having two waves of IDPs. According to UNICEF records, only after the war of 2008 more than 160 000 people left homes. Most of IDPs faced very dangerous events and after the war there was insult, captivity, loss of homes, relatives, territories. In order to understand, how post-traumatic narratives responded to the needs of IDPs, we need brief timeline of events explaining the major milestones of Georgia's two military conflicts.

Brief Timeline

Russia and Georgia were connected historically and geographically they represent neighbours. It is no surprise that those two communities came in close contact not once. In order to understand the historical context used in my article, I will offer brief timeline of major events connecting those two cultures. History of Georgian-Russian interaction can be divided in distant past, recent past and contemporary times. Close ties between two countries started in 1783 when Georgian kingdom formed an alliance with the Russian Empire, whereby the kingdom became a Russian protectorate and abjured any dependence on Persia. However, this agreement could not protect Georgia from Russian annexation in 1801 based on manifesto signed by Emperor Paul I. Georgia became independent briefly after separating from Russian Empire in 1918 and kept this independence until 1921 when after the Red Army invasion country was declared as Soviet Socialist Republic. One year later Soviets announced South Ossetia as autonomous region of Georgia which undoubtedly tensed relations between these two. In 1931 Abkhazia followed the path of Ossetia announcing autonomy. Georgia stayed as part of Soviet Union and gained independence with the help of referendum held on 31st of March of 1991. The same year military coup d'état against Georgian president took place.

Meanwhile, autonomous territories started to take actions: South Ossetia boycotted the elections of Georgian Supreme Council. As a result, Tbilisi declared the state of emergency in South Ossetia. Situation got complicated and resulted in war of South Ossetia in 1991-1992. The ceasefire agreement left South Ossetia divided into areas controlled by Georgia and areas controlled by the unrecognized government of South Ossetia. It also created the Joint Control Commission (including Georgia, Russia, North Ossetia and South Ossetia) and, under JCC mandate, introduced the joint peacekeeping forces (JPKF), made up of Georgian, Russian and Ossetia soldiers. A small number of organizations for Security and Co-operation in Europe monitors were also deployed in the area. At the same time in 1992 Abkhaz-Georgian war started which lasted until 1993. Georgian Parliament appealed to the UN, European Council and Supreme Council of the Russian Federation demanding the withdrawal of Russian forces from Abkhazia and stating that Russia waged "an undeclared war" against Georgia. The war resulted in declaration of Abkhazian de facto republic which is recognized internationally as part of Georgia. Heavy casualties were on both sides and 250,000 ethnic Georgian IDPs.

Contemporary history of Russo-Georgian relations is tightly connected to 2008. Events happening that year step by step led to full scale armed conflict. In April Russia declared it would step up ties with Abkhazia and South Ossetia, prompting Georgia to accuse Moscow of planning their de facto annexation. In May Russia sent 300 unarmed troops to Abkhazia, saying they were needed for railway repairs. Georgia accused Russia of planning military intervention. Georgian President Mikheil Saakashvili sent troops into South Ossetia in August. Russia moved its troops to the border, aircrafts flew over Georgia. Air strikes began in South Ossetia. On August 8 the United States, United Kingdom and NATO called for a cease fire of military hostilities by both Russia and Georgia. Delegation of EU and US diplomats flew to Georgia to resolve escalating tensions. As a result, Georgian president Saakashvili signed a cease fire agreement with Russia. The deal was brokered by French president Sarkozy. On August 16 Russian president Medvedev signed the cease fire agreement. Russia partially withdrew its troops from Georgia, as part of the cease fire agreement. Russia maintained soldiers at checkpoints near the disputed territories of Abkhazia and South Ossetia.

Narratives

Narratives are important in the study of trauma because they help individuals and groups create context for remembering, analyzing and overcoming stressful experience. Crystal states, that language is the primary index or symbol or register of identity, in that it expresses cultural distinctiveness (Crystal 2000, 33). As Zhang maintains "human thought or ideology is an important component of culture and because language is a medium to convey thought" (Zhang 2006, 42). Richard O'Kearney posits that traumatic narratives have specific features, including:

1. Emotionally fragile features;

2. Fragmented recollection of events (disorder of structure);
3. Mixed time context (trauma causes fragmentation of memories, so it becomes impossible to keep clear structure);
4. Show who bears the responsibility (who is guilty in the things that happened);
5. Self-perception of the narrator (O'kearney 2006, 40).

Interestingly, after both: Abkhazian War and August War the narratives created in order to show the conflict details reveal the features of posttraumatic pieces of work. There are two very similar narratives depicting the stress and trauma as well as identity problems of particular groups of IDPs. Chronologically the first narrative of interest would be the one depicting the problems and identity crisis of the Abkhazian War IDPs. "A Heavy Burden" is the book developed jointly by the Internal Displacement Monitoring Centre; Norwegian Refugee Council in Georgia and Panos London Oral Testimony Program. 59 interviews were conducted by 12 interviewers selected from different communities affected by conflict.

The preface of book explains the title: 'A Heavy Burden' – it comes from the great weight of the war traumas that most narrators reveal. After years of displacement, narrators still need to share with the world their losses and their continuing grief. Unsolved problems of displacement cause the feeling of insecurity. This collection of stories reveals issues that go beyond typical displacement and protection needs and touches on values, issues of identity, feelings and emotions (Lois 2007). As the narrative was created by the participation of trained scholars, it includes selected interviews. The aim was to achieve a balance of different experiences of conflict and displacement. Firstly, scholars created master list to include the main characteristics of each narrator. A reading committee created by the project members to make the selection process as comprehensive, as possible. Eventually, out of 59 tape-recorded interviews 13 were selected for publication.

Emotional fragility, which is considered to be one of the main features of posttraumatic narratives, can be observed throughout the whole book:

"We left our village in September 1993 because the war began. Abkhazians occupied Sokhumi and three days later, Gali too. We left at the beginning of the conflict. I remember that day as though it was yesterday, but it was 14 years ago. My mother's godson said to me: Why do you cry? We will return after three days". The final words of interviewer are the persisting motives in both narratives. After every conflict or war the mainstream idea for the community is the idea of fast return. Until the trauma will be analyzed and the results will be accepted somehow, community and especially IDPs choose to dissociate from the experience. "They were killed for nothing – just because they were Georgians". However, this victim has overcome traumatic experience with the help of employment and support of the surrounding environment; that is why she calls for forgiveness "Let's forgive and shake hands".

Second speaker underlines the strict difference introduced between Georgians and Abkhazians during the war of Abkhazia. The imaginary border can be drawn between the situations before the conflict and during the war. At first: "There were quite a few Abkhazians at the wedding. You couldn't feel any tension at all between the two sides". Whereas, during the conflict: "Abkhazians found that man had Georgian ID and arrested him".

The conflict took place not only between the communities but also between the identities. One of the respondents remembers how the toastmaster was asked to say Georgia instead of Abkhazia in his toast – Long live our land. Instead, he said "Long live Georgia and Abkhazia" which underlines the conflicting existence of Abkhazia within the borders of Georgia. Interviewed person underlines the identity issue and how service of Georgian man might not be recognized by Abkhazians and vice versa. "When you serve in Georgian army, Abkhazian legislature doesn't acknowledge it. I am a Georgian man and I prefer to serve in the Georgian army rather than to be unacknowledged by Georgians or the Georgian legislature after serving the Abkhazian army". The respondent also mentions problems of stereotyping. Difference between the children "here" and "there" might not be huge, but it still exists: "Children here are more advanced, as for there, they don't have any ability to think independently". Second interview perfectly reveals the group who is responsible for tragedies of people's lives: "Once, the Abkhazians attacked the village, perhaps to steal something or take something away".

How has the condition changed in Abkhazia after the conflict? “Time has stopped there. It’s come to a standstill. There’s nothing like progress _ only regression. You can’t start a business there. There are no educational opportunities there”. Even though life on this side of the river is not perfect either, victims refer to some opportunities for improvement while on the other side offers no perspective at all. “My family has contacts with the Abkhazians, but these contacts are based on vertical relationship – it’s like a relationship between the master and his servant”. The respondent feels that his life has changed drastically due to the conflict and as a child he experienced some problems of self-perception and self-esteem. “I lost a lot. I lost the prospect of better future. I might have been more successful if we had not been displaced, because I wouldn’t have those problems. I am sure I would achieve much more. The displacement was devastating not only for my family, but for many other families as well”.

As it is mentioned in the book, the ethnic identity is directly connected to ones social status in society and the treatment they are receiving from the oppressors. “Ethnic background determines the treatment towards people there. Our Georgian population is treated as if they were low-class. It’s wrong but if you’re Abkhazian, you’re considered to have a higher social status than if you’re a Georgian. If I tell them I am Georgian, I might be arrested”.

Overall, the book shows classical signs of posttraumatic narratives by revealing some of the major features characteristic for posttraumatic pieces of literature such as: giving the detailed account of particular memories, describing the condition after war, naming the enemy and talking about the self-perception problems. But eventually the book “A Heavy Burden” can be considered as a positive narrative by the reader due to having a hope for reconciliation and better future: “We will be reconciled”, “We have a hope for the future”. We can see that the stress has been managed with the time and with the help of different organizations/individuals working closely with IDP families.

The second narrative of interest is pretty different in its context and trauma perception. It was created right after the traumatic event of August War in 2008. The book is symbolically called “Hero” – title, which shows the importance of loss for Georgian community. The soldiers deceased in war became the heroes fighting for the freedom and independence of their country and narrative tries to express it. The book “Hero” contains up to 300 stories. The stories were written by the victim’s families and gathered by Georgian press association. Each storyteller tries to describe event in details. Apart from that each story is accompanied by the brief biography of the soldiers along with their photos. “Hero” makes clear differentiation between the group of victims and the group of enemies. It openly accuses Russia in wrongdoings, killings, mass murders etc. Trauma is generalized in whole book linking it not only with direct victims but also to their families and, therefore, to large society (indirect victims) (Tabeshadze 2016, 33). Considering all the above-mentioned, we can safely assume that “Hero” belongs to posttraumatic narratives.

Dissociation is a common feature for the book “Hero” as well. We meet the episodes in the book where the family members refuse to accept the fact of trauma and the death of their family members at all. “I am not going to dress in black. I am waiting for my son” or “I am sitting by the window waiting for my husband. The boys told me he was lost, but believe he will come back” (Fkhakadze 2010, 18). The book tries to define the group of heroes and the group of demons. Russians are named as the group of “Others”, who bring every misfortune and destruction. Therefore, they are responsible for the suffering of the victims.

As noted earlier, searching for those to be blamed is inseparable part of traumatic experience. Perception of enemy or “others” is directly associated with the strengthening of the ethnic identity. The role of enemy is to be bad and almost all the stories of the book underline this. “Not only my son was killed by Russian bullet, but also his sons and his descendants which my son would have”, “She thought her husband was destined to die, but instead, Russians killed him” or “In the buffer zone Russian Soldiers told her: your son will never wear a uniform”, “We had a protest against Russians and towards language as well”.

The book underlines the supremacy of Georgians over Russians underlining the ethnic identity. For the victims heroic behaviour can only be characteristic to Georgians as the enemies are incapable of deeds: “Only Georgian can be such heroes. They stopped the enemy attack and made a shift to the battle. Russian general expressed regret that if he had such soldiers as Georgians had, he would

definitely win the war” or “He sacrificed his life for his homeland and the enemies of his motherland killed him with bomb”.

One more very interesting trend found throughout whole book is that the victims try to connect the war of 2008 with the war of Abkhazia referring to the similarity of their conditions, particularly, the loss of the people and territories. It might not be just a coincidence. War of Abkhazia also represents traumatic event for Georgian community and it also created huge number of IDPs. The special emphasis is on the heroes who fought in Abkhazian war before and afterwards they participated in August war. “He returned his Sokhumi in Tskhinvali. He crossed nine villages without any rest because he remembered Sokhumi” or “He barely survived death once in Abkhazia and finally could not escape from it in August War 2008”.

Overall focus on heroism is persistent in whole narrative. Of course, the function of narrative is to inform wide society about the personal histories of the deceased soldiers. Moreover, personal histories also reflect the condition of the family members who also became the victims of mass trauma. This heroism is always underlined – in every story. “He did what heroes should – he protected the independence of his homeland” or “He became immortal on 10th of August – he became a hero”. Trauma is perceived as an opportunity to show one’s heroic nature, it’s a field to become immortal. Therefore, we can say that the book “Hero” is a classical example of posttraumatic narrative. With their detailed account of the event and showing the responsible group as well as with the emphasizing ethnic identity and emotional fragility both: “Hero” and “A Heavy Burden” stand in the group of posttraumatic narratives.

Conclusion

The major aim of the article was to analyze two narratives created after two devastating conflicts in Georgia. Attention was focused on two wars and their impact on whole society. Article assumes that both wars can be considered as mass trauma; otherwise they can be called collective traumatic events. These events, which are limited in time, cause not only destruction and disorientation – shift in established identity roles and change in values, but also the loss of many lives. Trauma, in general, is accompanied by loss and grief. This exact grief causes the PTSD – posttraumatic stress disorder characteristic for the family members of the victims. It is very important to deal with the PTSD, because neglecting trauma might cause additional problems for the individuals such as melancholy, depression, isolation and lack of desire for re-socialization.

After looking closely at two narratives dedicated to trauma commemoration, one can see clear difference. This difference includes more positive tone and neutral attitude towards the enemy in “A Heavy Burden” with overall hopeful tone for the future. On the other hand, the book “Hero” includes more disoriented view of events with vague perspectives of the future as well as more radicalism towards the enemy. I believe these differences might be caused by the time gone after the mass traumatic event. “A Heavy Burden” includes interviews about the events which happened more than a decade ago. “Hero” created in 2009 and published in 2010 contains stories of war which happened in 2008. This might be the cause of differences in radical positions and emotional tone. However, both narratives are undoubtedly posttraumatic with their main features.

To sum up, mass trauma and its different features are extremely interesting topic of study. Apart from that, trauma studies are important for traumatic societies in the process of recovery. Society’s welfare and future reintegration of IDPs depends on the process of coping with PTSD. Narratives are inseparable parts of this process.

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A Sociocultural Approach to Learning to Teach with Technology: Reflections on Pre-service Teachers' Field Experiences

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ABSTRACT: One cannot fully understand the nature of learning to teach through a cognitive approach. Teacher educators should support the development of attitudes, beliefs, and identities of pre-service teachers as well as their knowledge and skills related to teaching with technology. Therefore, this study embraces communities of practice framework which has been widely used in teacher education research to explain social aspects of learning to teach. The participants are fifteen senior pre-service mathematics teachers enrolled in a four-year teacher preparation program in a state university in Turkey. Pre-service teachers participated in "legitimate peripheral participation" activities in order to encourage them, as novice teachers, to take responsibility and interact with experienced teachers for successful technology integration. Participants conducted workshops on technology-enhanced mathematics teaching in two different upper-secondary schools. A total of ten mathematics teachers participated in the workshops. Data sources are videos of workshops conducted by pre-service teachers and focused group interviews with pre-service teachers. Content analysis of verbatim transcripts indicated important issues regarding the social and cultural aspects of technology integration. This presentation will propose implications for pre-service teacher education in general and mathematics teacher education in particular.

KEYWORDS: sociocultural approach, pre-service teacher education, field experience, communities of practice, technology integration

Introduction

Recently, communities of practice framework have been used in teacher education due to its potential to explore the process of learning to teach as a socio-cultural perspective. Jean Lave who is a social anthropologist and social learning theorist, and Etienne Charles Wenger who is an educational theorist and practitioner first introduced the framework in their book which was published in 1991. The framework describes learning as a social process (Lave & Wenger, 1991). In education, there is a huge body of literature so-called socio-cultural perspective which deals with social aspects of learning mostly in the context of the classroom. However, in teacher education, most of the studies have been used communities of practice framework. Below, I explore the framework in detail and then report how it has been used in teacher education research.

Communities of Practice

A community of practice is not just simply a group of people who come together to do something. It should also have three main features (Wenger, 2010). First, it should have a domain which is related to the following questions: "What is our partnership about? Why should we care? Are we likely to be useful to each other? What is our learning agenda? What specific set of issues does it entail?" (p. 12). The second feature is that it should have a community in which a partnership grows and make progress. Beyond a common interest, people who come together a community should have a joint enterprise which brings us to the third feature: practice which is related to the following questions: "How can the practice become the curriculum? How can it be made visible and inspectable? What should participants do together to learn and benefit from the partnership?" (p. 12).

Lave and Wenger (1991) emphasized that social learning develops through participation and they developed terminology to distinguish different levels of participation of oldtimers and newcomers in a community. They defined "legitimate peripheral participation" through which newcomers increase their participation. It is "peripheral" because they are not as active as the core group in a community. Experts, leaders or coordinators are at the level of core participation (See Figure 1).

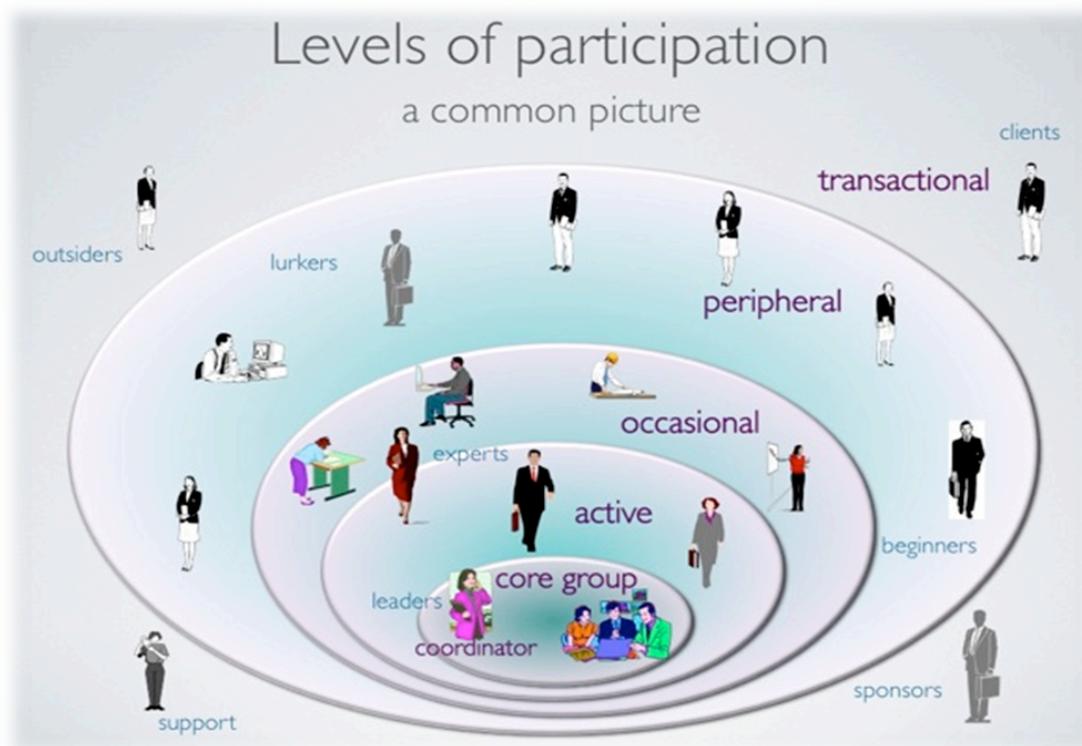


Figure 1. Communities of Practice: Levels of Participation

Source: <http://wenger-trayner.com/resources/slide-forms-of-participation>

Communities of Practice in the Context of Teacher Education

Research studies specifically used communities of practice framework in the context of professional learning during which novices interact with experts. Therefore, teacher education research also used this framework to explore how pre-service teachers and teachers learn to teach through participation in a professional community. Studies that focus on in-service teachers are more common. These studies explore how novice teachers become part of a professional community of teachers (Brodie 2014; Goodchild, Fuglestad and Jaworski 2013; Graven 2004; He An 2009; Lambson 2010; Vescio, Ross & Adams 2008). On the other hand, studies that focus on pre-service teachers focused on their field-experiences during which they first participate in a community of teachers at the periphery (Akkoç, Balkanlıoğlu & Yesildere-İmre 2016; Cornu & Ewing 2008; Peressini, Borko, Romagnano, Knuth & Willis 2004; Sutherland, Scanlon & Sperring 2005; Tsui & Law 2007).

Based on the literature review above, the aim of this paper is to explain the social aspects of learning to teach with technology using the communities of practice framework in the context of pre-service teacher education.

Methodology

This qualitative study was situated in a four-year teacher preparation program at a state university in Turkey. The participants are fifteen senior pre-service mathematics teachers enrolled in the program. Pre-service teachers participated in “legitimate peripheral participation” activities in order to encourage them, as novice teachers, to take responsibility and interact with experienced teachers for successful technology integration. Participants conducted workshops on technology-enhanced mathematics teaching in two different upper-secondary schools under the guidance of the course tutor (the author of this paper). Seven female pre-service teachers attended School 1 and eight pre-service teachers (one male and six female) attended School 2. A total of ten mathematics teachers participated in the workshops: six teachers (two male and four female) from School 1 and four teachers (one male and

three females) from School 2. Each workshop lasted approximately for an hour. Participants gave examples of technology-enhanced mathematics teaching using Geogebra and CabriGeometry software. The mathematical content included three-dimensional geometry, functions, and derivative. Mathematics teachers reflected on these activities and their usefulness in the classroom.

Data sources are videos of workshops conducted by pre-service teachers and focused group interviews with pre-service teachers. Videos of seminars and focused-group interviews were verbatim transcribed. Content analysis of verbatim transcripts focused on important issues regarding the social and cultural aspects of technology integration.

Findings

This section will present the findings in two sections. The first section will report the issues raised by mathematics teachers during the workshops. The second section will focus on the discussions among pre-service teachers and the university mentor on these issues after the workshops.

Issues raised by mathematics teachers during the workshops

Mathematics teachers reflected on the activities and their usefulness in the classroom. As a result of the interaction between pre-service teachers and mathematics teachers, various emerged during the discussions. The first theme is concerned with time-constraints. Mathematics teachers mentioned that using technology is time-consuming. Another theme is related to the first one. They reported that the pressure of high-stakes exams on teachers is an important factor in their decisions for not using technology. However, they believe that technological tools would be useful for three-dimensional geometry since they help them to make visualizations which is difficult to do on the board. They do not prefer to use them for teaching topics of mathematics other than geometry. Another theme raised by mathematics teachers is their concern about when and how to use technology which refers to pedagogical issues.

Issues raised by mathematics teachers after the workshops

Analysis of data indicated pre-service teachers preferred to reflect on what teachers discussed after the workshop when teachers were not present there. As a result of the interaction between pre-service teachers and university mentors, the following issues emerged. First, they reflected on the issue of time constraints. Some of the pre-service teachers agreed with the teachers that technology is time-consuming while others acknowledged that it is time-consuming but suggested to use it once or twice a week. On contrary, some of the pre-service teachers claimed that technology could save time by allowing to draw graphs very quickly and efficiently.

Participants reflected on the issue of “pressure from high-stakes exams” in different ways. Pre-service teachers acknowledged the existence of pressures from exams on teachers and they claimed that they, as future teachers, will be judged by their students’ success in exams. Some of the pre-service teachers would like to use technology in their future lessons but at the same time have concerns about exam pressure. With this regard, they mentioned about the tension between curriculum and exams. Furthermore, they mentioned their concerns about a lack of resources for teachers such as textbooks. To overcome these difficulties, they suggested that technology should be integrated into the examinations.

“When and how to use technology” is an important theme emerged from the data. Pre-service mathematics teachers emphasized the importance of appropriate use of technology. One of them mentioned the following:

Teachers’ perception of using technology is limited to smart boards. As I understand from the workshop, teachers assumed that mathematical software should be used in every lesson. It’s not the aim. Also, teachers privilege paper and pencil methods.

Pre-service teachers also claimed that technology and paper-pencil methods should be balanced. In other words, it is important to decide when to use technology and when to use the paper-pencil method in the instructional design and implementation of a lesson.

Another issue raised by pre-service teachers was about the resistance of teachers towards technology. Although they are aware of teachers' negative attitudes towards technology, pre-service teachers also have their own concerns about tailoring the needs of students according to their levels when using technology.

Conclusions

In this study, pre-service teachers, as newcomers, were given the chance of discussing technology-enhanced teaching with old members of the professional community. Pre-service teachers participated in "legitimate peripheral participation" activities in order to encourage them, as novice teachers, to take responsibility and interact with experienced teachers for successful technology integration. This allowed pre-service teachers to align themselves between the university and school cultures.

In conclusion, I suggest designing legitimate peripheral participation activities during teacher preparation courses, especially in field experience courses. Pre-service teachers should be faced with the reality of schools under the guidance of university mentors. University mentors should guide pre-service teachers during this process which take place when they start the profession. However, it is important to monitor this process during teacher preparation programs. University mentors should be a mediator between university and school (Goos 2005).

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The Causal Link between Major Depressive Disorder, Suicidal Behavior and Filicide

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ABSTRACT: This article describes the causal link between major depressive disorder, suicidal behavior and filicide. The filicide perpetrator is a person affected by major depressive disorder, the passage to the act does not manifest itself as an ordinary delinquent act, but has a specific etiology that sometimes involves suicidal behavior and conjugal crime. In 2014, Turhan Canli publishes in the *Biology of Mood & Anxiety Disorders* a study on the re-conceptualization of the major depressive disorder as an infectious disease in which he suggests that major depression may result from a parasitic, bacterial or viral infection. Major depression and antisocial personality disorder can trigger the transformation of the criminal ego by overcoming the barrier of moral and religious inhibitions, emphasizing the transition to the crime. From a psychoanalytic and victimological point of view, the destructive attachment of the victims of marital crime that return to the aggressor after being physically abused is also analyzed.

KEYWORDS: antisocial personality, filicide, major depressive disorder, suicidal behavior, the victim of domestic violence

Introduction

The major depressive episode describes the disposition and condition of a person who has experienced at least four symptoms of low energy, feelings of futility or guilt, difficulty in thinking and making decisions, changes in body weight, sleeping disorders and psychomotor activity, the presence of the idea of death, as well as plans or attempts of suicide (DSM-IV-TR, 2003). The state of existential despair, anxiety, permanent irritability, frustration about insignificant events, contributes to the deterioration of the social behavior of the person suffering from major depressive disorder.

From a philosophical point of view (the theory of existentialism), the existential deterioration of being finds its explanation in the absurd and unfairness of the social world. Man's responsibility for his own world to build a positive project is overwhelming. Man is condemned to freedom (Sartre 2004) and carries on his shoulders the failure and glory of humanity. The story of a life, whatever it may be, is the story of a failure (Sartre 2004). The inability of the individual to achieve some of the proposed goals sometimes casts him in the absence of emotional imbalance. Poor management of emotions in interpersonal relationships, lack of discipline, effort and pleasure to be useful to the family and community lead to the absence of social commitments and a passive life at the risk of unacceptable isolation. In the middle of the family the individual with antisocial personality tries to find answers, tries to acquire a certain pleasant experience for his emotional instability. Impulsiveness and egocentrism are limited for a period of time by the protection of some patient parents, and later by a wife, a social partner who, without the power to reduce aggressive behavior, will quickly exhaust its intellectual and emotional resources to accept living with the marital afflictions. When personality traits become defective or inflexible, these sustainable patterns of perception, reporting and thinking about one's own person will lead to distress and deterioration in social behavior that is present throughout life (Costello 2017).

Suicidal behavior

Suicidal behavior can also be described as an obsessive concern of the individual over his existential failure and the lack of finding an alternative situation to solve the problems of his life. Mistrust in the moral nature of its unjustified being and the difficulty of managing social challenges push the person to conceive suicidal plans. An individual overwhelmed by the problems of life, without family support, without emotional stability, without professional preoccupations and social commitments, can turn to the suicidal act to get rid of any responsibility. The state of unhappiness, physical discomfort and lack of

well-being, excessive anxieties and obsessive embarrassment become a suicidal risk for a person with moral and mental instability. Other factors that increase the risk of suicide: physical pain (especially in the case of chronic evolutionary disease without healing) supplemented by the lack of joy and spiritual life, the lack of a professional routine that actively maintains the pragmatic sense of being concerned with a useful and enjoyable existence. Schaffer and Rodolfa in the ICD-10-CM include as suicide risks the plan of suicide and the suicide verbal announcement, previous suicide attempts, depressive disorders, role played by rumination at the expense of problem-oriented thinking (Schaffer and Rodolfa 2019). Every year in the United States, nearly 45,000 people commit suicide, 13.4 out of 100,000 (Schaffer and Rodolfa 2019, citing Centers for Disease Control and Prevention, 2017).

Major depressive disorder

The presence of depressed mood can be deduced from the behavior of the individual affected in the family and socio-professionally environment, from attitude and language, from behavior and facial expression of the person (DSM-IV-TR, 2003). Descriptive elements of a major depressive episode: loss of interest or pleasure, significantly reducing sexual desire, lack of appetite (many individuals are in a state of depression is forced to eat), insomnia, changes in psychomotor, low energy and fatigue, feelings of worthlessness, damage ability to think, suicidal ideation, sadness, irritability, rumination; "Pathophysiology of major depressive episode of the disorder involves a number of neurotransmitters, including serotonin systems, norepinephrine, dopamine, acetylcholine and gamma-aminobutyric acid systems" (DSM-IV-TR, 2003).

In October 2014, Turhan Canli publishes in the *Biology of Mood & Anxiety Disorders* an article supporting a reconceptualisation of the major depressive disorder as an infectious disease. The author believes that the etiology of major depression can also be explained by the possibility of a genetic link with the disease, the human body being an ecosystem for microorganisms, and the human genome hosts non-human exogenous sequences (Canli, 2014). Major depression may also be caused by parasitic infection (*Toxoplasma gondii*), bacterial (bacterial gastrointestinal) or viral (Borde disease virus - BDV). Through his study, Canli attempts to demonstrate that major depressive disorder is no longer to be regarded as merely an emotional disorder with endogenous causes that concern the inner self of the patient and his psychosocial problems. Major depression may be caused by an infection and should therefore be monitored as any parasite, bacterial or virus disease that could play a causal role in the etiology of major depressive disorder (Canli 2014). Meta-analysis of clinical trials and post-mortem studies have confirmed the presence of inflammatory markers in the brain of depressed or moody patients. The victims of female suicide had high levels of IL-4, and male suicide sufferers showed elevated IL-13 levels in the Brodmann area, a region of the brain previously associated with the suicidal ideation (Canli 2014). The human body when infected with a parasite, bacterium or virus activates the immune system through inflammatory markers. These inflammatory markers activate the immune system in response to a certain type of pathogen (Canli 2014). Turhan Canli (2014) argues that "the immune response itself is the causal mechanism in depression"; for major depressive disorder the type of pathogen is significant because it plays an important role in the causality of the **disease** (Canli 2014).

Criminological Aspects

Having a suicidal behavior, the perpetrator of the filicide is overwhelmed by a state of uncertainty, spiritual uncertainty, uncontrollable desires of the criminal unconscious, and the desire for vengeance, concluding the accounts with the world, the family, and the whole of society, a vindictive priority for himself to free himself from the quake of inner aggression. The suicidal ideation finds in the destruction drive and the death drive way to curb the suffering and the unbearable sense of guilt, which in moments of lucidity causes the anguish and the psychic fall of the individual. Suicide becomes a goal for the perpetrator of the filicide. The existence of the suicidal plan precedes the intention of making the filicide and marital crime (the case of the filicide and marital murder in Brasov, 2018, when a man, after a suicide attempt, kills his wife and two minor children but survives and does not commit suicide after the committing the criminal act; the case of the Pitesti filicide in 2018, when a man affected by the

separation from his wife shot his child for three and a half years, and then committed suicide ; the case of Andreea Yates, Houston 2001, which, although after several suicide attempts, mill to avoid harming the children, remaining unsupervised by the husband, succeeds on the 20th of June in a single hour to drown the five children in the bath tub). "The essential element of a personality disorder is a durable pattern of internal and behavioral experience that deviates considerably from the requirements of an individual's culture and manifests itself in at least two of the following areas: knowledge, affectivity, interpersonal functioning, or impulse control" (DSM-IV-TR, 2003, p. 686).

The sociological analysis of the filicide presents the risk factors that can cause marital killing and violence as the deterioration of family relationships, job loss, diminishing economic income, social isolation of the perpetrator, humiliation and dissatisfaction in marital life, age and progressive illness, the provocative attitude of the victim (especially in case of accidental filicide), personality disorders, low occupational status, divorce, alcohol consumption (Balica 2010). Behavioral disorders caused by alcohol consumption can destabilize socio-familial life. After consuming alcohol sometimes the individual can feel a bad state, the brain opposes the toxic effects caused by the substance that invades the body. Alcohol passes from the mouth to the stomach where the ethanol is transformed into acetaldehyde, and then into the liver where the metabolic process takes place. These decomposition of substances can influence and surprise the individual's body negatively, excess alcohol consumption can lead to nausea and vomiting, the metabolism of alcohol being incapable and insufficient to take up and transform toxic substances. If the body manages to experience nausea and vomiting in the case of excessive alcohol consumption, the effect of brain alert, in the case of inner aggression, controlling the functions of the being dominated by the destruction drive, the only way of defense is the deliberate unloading of violence of Id, an Id desfigured by hatred and the spontaneity abyssal feelings.

Incapable of adapting to society, the perpetrator is considered the victim of social rejection, the social and family environment adopts a position of disapproval of inappropriate behavior (alcohol, drugs, domestic violence). The suicidal ideation present in the aggressor's being is also determined by the stigmatizing position that the perpetrator encounters in the community (Tănăsescu 2012a). In conjugal violence, the life partner becomes unjustifiably the subject of aggression. The life partner (wife) is the one who offers confidence and emotional attachment, has dealt with the education of children, a complex attachment through which family life evolves positively. If the partnership breaks down (the wife leaves the marital residence and divorces), the perpetrator of the filicide sees that his existential failure has been caused by this rupture, the vindictive feeling turns into the reflection and reasoning of the crime, being a way of surviving with himself until he finishes transition to criminal act. Analyzing the function of psychoanalysis in criminology developed by Lacan's theory, Stephen Costello considers the passage to the act as impulsive acts of violent and criminal nature, which sometimes mark the onset of an acute psychotic episode (Costello 2017). The passage to act means the idea of homicide transformed into a criminal act, an intention that goes from the symbolic world and materializes into the real world then producing legal effects.

Filicide is not just an antisocial act sanctioned by law with the execution of a custodial sentence, but also represents the dramatic image of a family, in the midst of a community unable to prevent the passage to the act, an image that describes both the act provided by the criminal law and the stages that go through the perpetrator's guilt until the time of the crime. Psychological, religious and socio-economic issues are important when we analyze the crime etiology, the way in which the deed was committed, or when the psycho-legal forensic expertise discovered a diminished discernment, a personality afflicted by certain mental disorders (Tănăsescu 2012c). The perpetrator's guilt is described by the intellectual factor (discernment, conception of the deed, reflection and reasoning, justification and arguments in favor of crime, procedure, construction and premeditation of the criminal situation), the volitional factor (the manifestation of the inner force of the criminal ego pushed unconsciously to overcome any inhibition moral - destruction of the Superego - for the realization of the deed) and the affective factor - emotions of the unconscious released for intense experiences, catharsis (Atkinson, Atkinson, Smith, Bem 2002). The will to

commit the filicide is born from the idea of homicide and suicide, but it is also pushed and caused by the criminal unconscious, who represents the resource of the destruction drive and of the death drive. Whenever a family member or a child is abused, the therapist or teacher must report the case to the local or governmental institution responsible (Davies and Frawley 2017).

Psychoanalytic aspects

By the drive Freud understands those forces that exist behind the tensions of Id's needs (Freud 2014). Through these drives the Id determines the social ego to interact with the outside world, but to satisfy in the first place the innate needs of the person. The drives become the physical requirements imposed on psychic life (Freud 2014). By destroying things, by social withdrawal, to protect the individual from existential suffering and dissatisfaction, by dissolving relationships with close relatives and professional relationships, the destruction drive leads the being to the inorganic state (Freud 2014) transforming into a death drive. It tends to return to a state before life, which is lifeless (the primordial absence) is supposed to precede the appearance of life (the essential presence). The destruction drive acts contrary to the love drive. The purpose of the love drive is to preserve and maintain the being in life, to keep in touch with the outside world, and to bring existential satisfaction to the social ego. Libido, as the available energy of Eros (Freud 2014), as the positive energy of the love drive, is present in Ego-Id but also in Superego. Ego tries to transfer libido investments to objects, only when someone is completely in love, the libido is transferred to the object and the object is somewhat in place of the Ego (Freud 2014). The filicide perpetrator reveals by suicidal ideation and intent that he has accumulated too much aggression within him that will cause behavioral change and stimulate self-destructive energy. Inhibiting the Superego, unleashing the courage of the moral court, will gradually cause the exhaustion of the social ego and the consumption of the life drive that is the death of libido; the individual dies because of his own internal conflicts (Freud 2014). In the *Psychoanalysis Compendium*, begun in the last year of life, Freud (2014) considers that libido has somatic sources, it flows to me from different organs and parts of the body. The perpetrator of the filicide having tense relationships in family life is supposed to be affected by anxiety, frustration, and alcoholic intoxication; major depressive episodes and antisocial personality disorder impair the content and the birth of pleasure, leaving the nakedness of feelings and without empathy. Inhibition of erogenous areas of the body, depletion of vital energy, consumption of libido through emotional, psychological and social blockade are factors that lead to the occurrence of suicidal behavior and the realization of conjugal violence. The victim becomes the object outside of the Id and the intention to satisfy the aggression drive. Through the will of the Ego (only this has the possibility of intercession) there is the possibility of destroying the Superego (the one who censures the excesses of the Id), instinctual drives freeing themselves from any inner barrier.

The conjugal murderer, who becomes the perpetrator of the filicide affected by the major depressive disorder, finds in his own being, in the darkness of the ancestral unconscious, the resource of aggressiveness, a sufficient amount of violence releases through interaction with the object of his victimization and opens the transfer of the destruction drive. The Superego, weakened by the effects of major depression, degrading inclinations, and choices without any essence of the Ego, no longer has the power to positively influence the decisions of making social acts; Superego does not have the force of Id's drives and cannot interrupt an immoral activity punished by criminal law; at the time of committing the crime, the moral court - Superego cannot intervene and prevent the materialization of the criminal act; a weak Superego cannot cause the self to commit suicide, cannot hurt its own being (the body) to interrupt aggression. The Id through the aggression drive blocks Superego and controls the decisions of the criminal ego. Without aggression, the Id remains ill and dissatisfied; his primitive instincts cannot tolerate this state.

David P. Celani (2014) in his book "Illusion of Love. Why the Maltreated Woman Returns to Her Abuser" analyzes the theory of psychoanalyst W.R.D. Fairbairn on the attachment of rejected and abused people to the person who caused them pain and suffering. Research has shown that children who have been forced to move from their abusive families have remained exceptionally

attached to their parents, both at symbolic, imaginary and real levels. The children were emotionally disturbed and felt guilty for the situation, arguing that they were the ones who caused the negative family problems; their abusive and negligent parents were considered by the children to be good parents who always took care of their family. Sometimes “hundreds of refusals and rejections diminish the development of self-sentiment in the child”.

The Philosophical-Religious Interpretation of the Filicide

From a religious point of view, it is important to see if the perpetrator has the capacity and the will to in himself the power to commit suicide to save his family from conjugal crime and filicide, although religion does not tolerate suicide regardless of the causes that caused it. This sacrifice is only in the interest of the family, this action saves the loved ones from the criminal act. The filicidal ideation (the thought of killing one's own child) is the trembling of the Superego, the moral court attempts at a moment of equilibrium of the social ego to push it to suicide before committing the filicide. The Superego assesses the dramatic situation and decides that it is better for the Ego to have the will and the power to destroy itself, loss of life is necessary and moral to prevent a terrible crime. The failure of suicide (attempted suicide) leads the evil towards the act. In the case of the murder in Brasov in 2018, the filicide perpetrator went to the monastery on the day of the act, he prayed, and told the investigators that he had become obsessed with the nature of the mystical act having a revelation. On his way home he tried to commit suicide with a knife. He failed and went to the home where he killed his wife and the two minors. In Andreea Yates, Houston, 2001, in the discussion with his psychiatrist, she said she wanted to commit suicide (tried several times but was saved) because he was afraid of killing his children. The filicide happened when the woman stayed unsupervised at home and drowned her five children in the tub.

In Genesis, chapter 22 of the Bible, Isaac offered for sacrifice, describes the three-day journey of Avraam to Mount Moriah. Avraam, at the call of God, takes his son Isaac and goes to Mount Moriah to kill him (the paternal filicide) and sacrifices it for the divinity. Sarra entrusts Avraam to her son Isaac, whom he loves very much and for whom he daily thanks to God for making possible his birth when no one ever thought it was likely to happen (Isaac is a miracle for the two parents). Sarra represents the image of the mother who entrusts her son to the life partner she trusts; the state of moral purity and innocence is presumed in the case of the mother of the victim of the filicide. Normally, no mother would entrust the child of a presumed murderer (the case of the Pitesti filibid in 2018, followed by the suicide of the perpetrator, the mother had total trust in her former partner, whom she had soon divorced, never considered possible killing the child). In his book on Trauma, Attachment and Family Constellations, Franz Rupert (2012) considers attachment to be a universal principle, surviving beings are reported to each other through attachment forces. The individual who participates in the attachment process, through language, feelings, thoughts, body touch, fusion of senses (smell, taste, vision, hearing) can leave an impression of indelible impression to another (Ruppert 2012). Attachment of a person to family members and especially to the mother is the fundamental form of human attachment (maternal or paternal filicide, matricide, paricide are considered cardinal crimes). Human attachments are emotional, all basic human feelings originate in the attachment. The emotional connections and experiences of people who create intersubjectivity can make it possible to translate into the situation of others (Ruppert 2012). In most cases, the aggressor and the victims live together, have the same rituals; the ancestral attachment has united their senses, the disappearance or death of a family member can cause a moral, emotional shock, or a mental trauma. In the case of revenge, the perpetrator of the filicide is aware of the emotional value of the criminal act, the moral prejudice he produces is immeasurable. “In the ideological sphere, vengeance is accompanied by a fantasy (conscious or unconscious) of having been seriously injured by someone and of obtaining satisfaction by injuring the aggressor” (Akhtar 2018). Sarra is attached to her son Isaac, but entrusts him with Avraam to go to Mount Moriah together. Avraam is attached to his son, but at the same time he loves God and wants to respect his will - Isaac's sacrifice. The inner conflict of Abraham is disturbing. He has to make the decision to kill the one born of the goodness of divinity, and at the same time feels exhausted and

helpless for this deed. Avraam is influenced by faith, the universal voice of ethics, and is driven to commit the crime. Avraam does not dispute God's right to ask for an innocent child. Avraam feels guilty because he will not be able to accomplish the deed required by the divine voice. Sense of guilt does not show suicidal behavior, though Avraam is aware that if he kills his child at God's request, his life with Sarra will be just fear and trembling. The road to Mount Moriah spends him in mourning and distress (he is afraid of being considered weak and without faith, not to be cursed with the power to kill Isaac). Kierkegaard (2005) believes that without an eternal consciousness, inhabiting the being of man, without self-conscious awareness of eternal life, would only be despair. The interpretation of the Danish philosopher regarding the deed of Avraam proceeds from the situation of accepting destiny at the moment of calling the deity. His act is not absurd because he believed in the meaning of divinity. Avraam accepted the faith and left behind the worldly understanding (Kierkegaard 2005). "The meaning is the way, the road, and the bridge to the one who will come" (Jung 2011). The filicide in this case means the will of faith, the will to participate in the divine act - metanoia. When Avraam removes the knife, God prevents him from committing the filicide in the last moment; Overwhelmed by this attempt, Abraham has become old for eternity. "Who strengthened the arm of Avraam, who held up his right hand, lest he fall powerless? The one who sees this paralyzes" (Kierkegaard 2005).

Conclusions

Depression is a psychological disorder affecting about 7% of the general population (Schaffer and Rodolfa 2019, quoting Center for Behavioral Health Statistics and Quality, 2016). Studies of 442 men over a 20-year period have found an association between childhood maltreatment and later antisocial behavior as a function of MAOA-LPR genotype: the presence of both risk factors - the low- history of childhood maltreatment - doubled the risk for behavioral disorder, antisocial personality disorder symptoms, and other measures of aggression (Canli 2015). Major depression plays a significant role in producing suicidal behavior, as well as causing conjugal violence and filicide. There is not much objective explanation regarding the suicidal act of the conjugal murderer preceded by filicide, but all studies show the existence of major depressive disorder in the behavior of the perpetrator. Conjugal violence followed by filicide and the suicide of the perpetrator may be influenced by drug and alcohol consumption, poverty, divorce, job loss, but these factors are not the main cause of the crime. Social, cultural, economic factors can contribute to causing major depression, which, through its negative evolution, is turning into a significant disorder; the will of the killer finds in the major depression sufficient resources to conceive the suicidal ideation and the force required to execute the criminal act. The success of future research can lead to better treatment of the major depressive disorder, both as an infectious disease and as an emotional disorder. Through this treatment, we can avoid some of the difficult situations that lead to conjugal violence, in which one of the partners has the symptoms of major depression.

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Banning Plastic Shopping Bags: Raising Environmental Consciousness on National Level

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ABSTRACT: This paper is centered around social learning theory principles and intends to demonstrate the use of these principles through a proposed ban of single-use plastic shopping bags. The ban would be an effort to raise environmental awareness in U.S. society. This paper explores the current literature across several connected topics: the harm that plastic shopping bags cause to our environment; the way in which a ban of these bags could improve environmental awareness, and as a by-product, raise efforts; and the best alternative to these single-use bags: jute bags. Furthermore, this paper explores how these efforts could become realized through the use of governmental incentives designated for corporations who implement these changes. Lastly, this paper explores possible positive long-term effects of this implementation and potential problems within these proposals.

KEYWORDS: Social Learning Theory, Plastic Shopping Bags, Environmental Awareness, Jute Bags, Governmental Incentives

Introduction

Since the development of Albert Bandura's Social Learning Theory, many improvements in society have been made possible through the use of these principles. According to Chegg.com, social learning theory is the concept that humans learn through observation and imitation of others with which they surround themselves. The process of social learning can be broken down into a few simple steps: attentively watching the observational being, creating a memory of the actions exhibited, imitating the observed actions, and replicating the behaviors in the same way as the observed being (Chegg Study n.d.). Considering the current global climate and harmful impacts of plastic pollution, it seems of use and even of utter importance to implement these theories in an effort to raise U.S. society's environmental awareness. Since the United States of America is one of the world's most industrialized and developed nations, it is reasonable to believe that the United States has one of the biggest environmental impacts in the world. Banning plastic shopping bags and replacing these one-time use bags with jute bags in major cities around the country could help influence and raise concern and awareness for our environmental impact on a national level. Humans are highly adaptive beings and most behaviors and concerns are acquired through socially learned observation.

Environmental Harm Resulting from Plastic Bag Usage

In an article written by The Washington Post on plastics and the harm produced by them to our environment, The Washington Pos wrote: "If we keep producing (and failing to properly dispose of) plastics at predicted rates, plastics in the ocean will outweigh fish pound for pound in 2050" (Kaplan 2016). Actually, 80 percent of trash that collects on land, beaches, and in/on the ocean is plastic (Wabnitz & Nichols 2015). As is readily apparent from the information obtained, reducing use of plastics is vital to the global climate and marine ecosystems. Furthermore, this plastic pollution damage not only impacts upon marine ecosystems, but also has major potential to harm our lands and land-based ecosystems.

Some countries have outpaced the United States in the implementation of a ban or reduction of plastic shopping bags, though not all of these countries have switched to jute bags. For example, the province of Queensland, Australia, has implemented this change and, by doing so, has been able to effect a one-third reduction of plastic bag waste in landfills (ACT Government n.d). More importantly, after visiting relatives in Australia who reside in the country, it is readily apparent that this society is more environmentally conscious overall than America. Some of these differences are due to difference in resources each country has access to and certain historic cultural differences, yet these are not the only factors. Although an assumption, it is worth at least considering that the

ban of single-use plastic shopping bags has had an additional impact on environmental awareness in the country.

After much research, jute bags seem to be the best alternative to the single-use plastic shopping bag dilemma. Jute bags consume carbon dioxide and also happen to be biodegradable (Medium.com/Greenhandle 2018) Now that it is evident that carbon dioxide is a greenhouse gas that has played a vital role in the reduction of our ozone layer, which in turn has created major climate change and sea-level rise, this is one of the most exciting aspects of the jute fiber. Jute is an abundant fiber that is the second most commercially grown fiber in the world next to cotton, yet it needs much less water than cotton and is not dependent on pesticides for healthy growth. In fact, in one article ABC News states “one hectare of jute grown absorbs 15 tonnes of CO₂” (Kilvert 2018). Considering that many governmental agencies around the world are looking for ways to reduce the amount of carbon dioxide in the atmosphere, major commercial production of jute could produce some of the results these agencies are intending.

Applications of Social Learning Theory

As stated previously, social learning theory posits that humans learn most of the behaviors and thoughts they commonly exhibit via observational learning. As this has been tested and proven time and time again, it is reasonable to assume that banning plastic shopping bags would increase environmental consciousness in addition to limiting plastic shopping bag use. As the reduction or elimination of plastic shopping bags in the U.S. would take place, the natural result would be that people in this society would think more often about the environmental impact that is a result of their own actions. In general, the more a person is aware of a detrimental behavior, the greater the chance there is for that person to be inclined to change that behavior. In short, the result should and would be a raise in environmental consciousness.

Since Albert Bandura first developed social learning theory there have been multiple examples of this theory being tested and repeatedly proven. In Albert Bandura's book, *Social Learning Theory of Identificatory Processes*, Bandura (1969) states “it is evident from informal observation that the complex repertoires of behavior displayed by members of society are to a large extent acquired with little or no direct tuition through observation of response patterns exemplified by various social agents.” In addition, Bandura states that “the provisions of social models are also an indispensable means of transmitting and modifying behavior in situations where errors are likely to produce costly and fatal consequences.” Though this book was written later, as a means to test this theory, Bandura designed the famous Bobo Doll experiment in 1961. In this study Bandura gathers a group of boys and girls and divides these children into three groups. These three groups of children are shown a video in which a child is playing with and attacking a Bobo doll. The difference between the three groups is that in one video, after the child attacks the Bobo doll, the child is positively reinforced. In another, the child is negatively reinforced, and in the third, the child is neither positively or negatively reinforced (Bandura 1965). The results ended up providing support for Bandura's theory; the children that replicated this behavior the most were the children that watched the video in which the child was positively reinforced for attacking the Bobo doll. This experiment in turn, led to the initial developments of social learning theory in 1963.

Thus far, in reference to social learning theory, this paper has detailed instances in which people have displayed negative behaviors learned through observation, yet it is also possible for these principles to be applied to effect positive societal change. A remarkable example has been demonstrated through psychologist's implementation of “time-outs” for child-rearing in American society. In a paper devised by researchers and graduate students at West Virginia University, it is stated that what “time-out” really stands for is “time-out from positive reinforcement” (Questch et al. 2015). Of course, this means that in order for “time-outs” to work, the child must be reared in an overall positively reinforced environment. It is not the child being punished as much as the child being removed from the favorable positive environment that makes this practice so effective. (What is most pertinent about this topic concerning this paper is that a by-product of this practice has been an extreme reduction in child maltreatment in American society (Questch et al. 2015). As such,

many social learning theory principles are found applicable here since much of this practice has been spread throughout the society through observational learning. This reinforces the conclusion that social learning theory has the ability to create widespread positive societal impact.

Potential Problems of Proposal

While many of the points made during this research have significant substance, there is question of how these changes could actually be implemented in the United States. If banning single use plastic bags were ever to have an impact across the country, the change would have to be implemented throughout multiple cities in each major region of the United States simultaneously. In addition, in order to effect such change, there would need to be a long-standing organization in charge of this implementation that also has major political influence in these cities. After much research, the most fitting non-profit organization points to the Sierra Club. The Sierra Club is found in most major cities in the United States including cities such as New York City, Atlanta, Chicago, Dallas, Seattle, and Los Angeles, which would cover most major regions in the country. The Sierra Club's mission statement reads as follows: "To explore, enjoy, and protect the planet. To practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out those objectives" (Sierra Club n.d.).

In order for Sierra Club to be able to persuade cities and corporations within these cities to implement these changes, incentives would need to be created for both parties. While searching corporate incentives already being used in the United States, Colorado was found to have a state-wide incentive for investing in machines designed to recycle plastic materials called the "Plastic Recycling Investment Tax Credit." This tax credit is a 20% tax break on the first \$10,000 spent on plastic recycling investments (White 2018). If used as a model to build a new tax credit that Sierra Club could persuade each of these cities to create, the implementation of these proposals could be realized. Of course, this would only be an example to have the new tax credit based off.

The proposed tax credit that has been formulated through this research would be a 20% tax break of the first \$100,000 of net expenditures on jute bags for the first five years. This seems to be an appropriate incentive to help persuade corporations to actually implement this switch. Although the cities that do this would lose money from this venture in the short-term, in the long-term this should be immensely beneficial to these cities, as well as making each city more attractive for businesses and residents to want to move to these cities. This, in turn, would increase revenue flowing to government coffers, resulting in the overall benefit to the cities. From this point, a trickle-down effect would likely be realized to the areas surrounding each of these cities, thus leading to the spread of the same practices throughout the country.

Of course, problems could exist in implementing these proposals. In order to effectively link these bans or reductions to a raise in environmental awareness, public service announcements explaining the benefits of these changes would be of vital importance. If public service announcements were not implemented concurrent with the efforts, it may not be successful. Additionally, figuring out the production costs of jute bags and determining if these bags would be single-use or reusable is necessary information that needs to be researched. Even if the jute bags were reusable another great point is if these bags would be cheap enough to be given away to customers for free, much like the already in use plastic shopping bags. Another problem is the fact that not always is it easy to persuade corporations and city legislators. Figuring out which city council members are pro-environment, current budget circumstances, and persuading a non-profit like Sierra Club could be potential obstacles.

Conclusion

After reviewing these proposals, additional research needs to be done. Social learning theory principles appear to be applicable in raising environmental awareness in the United States and a good way to raise this awareness could be created by banning single-use plastic shopping bags. Jute is likely the best alternative as it is easy to grow, less harmful to the environment in which it is grown in, and absorbs carbon dioxide while growing. In order to implement these changes, a well-established non-profit, such

as Sierra Club, would need to be willing to tackle these proposals across multiple cities. Incentives would need to be provided for corporations and governments within these cities to prompt willing participation. Furthermore, it would be most effective if more research was done on which city council members, congressmen, and senators in a region are pro-environment as well as what non-profits have connection with whom. A ban of single-use plastic shopping bags across multiple cities could increase to a national level and as a result raise concern for positive environmental impact as a byproduct; humans are very adaptable creatures and most of our behaviors and concerns are socially learned.

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Release of Prisoners and Rehabilitation Programs for Integration Into Society

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ABSTRACT: Resocialization is a educational, reeducative and a treatment process for to convicted persons, through which it is aimed their readaptation to the system of norms and values accepted by societies, for the purpose of social reintegration and the prevention of recidivism. The social reintegration of former detainees is part of the punishment and requires increased attention. For this process to be successful, it is necessary to develop some standards, and then, in order to ensure a lifestyle that assures the respect of these normative, there must be a social environment open in this sense. In a changing economic and social environment, the isolation of people in detention makes their professional and social skills to be inadequate at the time of release of them from the penitentiary. An important role in the chances of the sentenced to resocialization is the right of the detainee to keep in touch with the progress of the society outside the prison.

KEYWORDS: recidivism, rehabilitation program, release from the penitentiary, prison environment, social reintegration

Introduction

Social reintegration involves “restructuring the character of the offender so that he can work in society without committing crimes in the future”. In this process must get involved all social factors, and reintegration will be effective if it is done in different directions. Enforcement of the sentence does not lead only to the change of the social status of the condemned person, but also to the loss of many social roles and connections, which he had before committing the offense (Banciu and Rădulescu 2002, 144). That is why one of the main purposes of the penitentiaries is to prepare the convict, who is serving the custodial sentence, for the freedom out of jail. After the release, each person who has been condemned will have to solve his own problems, restoring the stereotype of the conduct before conviction. With the execution of punishment and release from the detention area, referring to a lengthy detention, the former detainee is placed in the front of a rather difficult situation, justified by the difference in the conditions of life known by him until the moment of condemnation, the current conditions of life and those in the penitentiary, with which he interacted during the period of enforcement of the sentence. The unfavorable consequences of detention over a long period of time, become evident especially after the execution of the conviction (Abraham 2001, 233).

They have remarkable influences on the re-socialization of the released person ones and the possibility of their rapid and full framing in a normal life after liberation. Social adaptation is judged to be a success in the situation when all the social relations of the convict have been restored and it does not present deviations of behavior. The felon adapts normally if he breaks every intercourse with the criminal world. Since the person can accommodate in a positive and negative environment, I mention that in this situation it is a social adaptation of the released person, which consists in a socially acceptable way of life and right from the point of view legal. In this circumstance, the detainee released from prison must be prepared to make a determined effort in order to solve the problems with which he is going to face. He must to rectify his system of values, be ready to rebuild his family, relations with relatives and other social relations, to set his own direction in the ways of solving conflict situations in his own entourage and at work, to know to address the judiciary in case of a conflict situation, to know their rights, obligations, and to respect them. The resocialization of convicted persons should, from my point of view, include basic issues, namely, their removal from the negative habits of the penitentiary and the acquisition of social skills, social adaptation or adaptation to the new context of life and social rehabilitation, or otherwise said, regaining the social status lost with the conviction received.

Recidivism, the failure of the prisoner reintegration into society

A study conducted at the level of the National Penitentiary Administration, which was tracking at the evolution of the main indicators of the Romanian penitentiary system comparing with the ones in the European countries, reveals that although Romania has a severe sanctioning system, it is the country with the highest number of detainees. The significant problem is over-agglomeration, because it negatively influences all the activities conducted in the penitentiary. At Jilava Penitentiary, according to the statistical data, there is an agglomeration of 195%, each detainee having a space of 2-square-feet. With all these, many inmates are committing new infractions for returning to detention area, arguing that they can not integrate because no one is hiring them and they are rejected by society. The last data taken from the report of the National Administration of Penitentiaries in Romania indicates that the date of December 31, 2017, the total number of the people in the detention area was 23.450.

Starting with the law which came into effect on October, 19, 2017, No. 169, and which produced effects by establishing a compensatory benefit mechanism, meaning 6 days considered to have been executed for a number of 30 days of custody in inadequate imprisonment, in which case, between October 19 and December 12, 2017, a number of 3.630 detainees, were released from which 912 detainees were released on time and 2.718 detainees were released conditionally. The poor results of specialists on identifying the profile of the person which repeat crimes and the factors that cause them to deviate repeatedly from the law is reflected in the recidivism. Because of these research gaps, the preventive measures of the phenomenon did not have the expected effectiveness, so the share of recidivists in the total population incarcerated in Romania on 31 December 2017 was 38.37%. The fact that a high percentage of prisoners is formed of those who have passed through the experience of the criminal justice system demonstrates its shortcomings. It has to be seen how the effectiveness of the penitentiary institution can be increased, so that the periods spent by those condemned in detention are useful and do not represent simple intervals of pause in their criminal activity. As a special form of the phenomenon of infra-rationalism, recidivism is one of the most serious social problems faced by contemporary societies (Buş 2005, 115).

For the representatives of the institutions involved in the act of justice, but also for the public opinion, the relapse generates many concerns because of the high costs it causes. Alongside the huge expenditures implied at the level of the penal justice system, the recidivism brings with it many non-quantifiable costs. These are perceived in the long run by the victims, by their families, by the community, and refers to the suffering of those affected directly by the criminal offense, as well as to the feelings of fear and insecurity experienced by residents of high-risk areas of relapse. The practitioners and researchers are trying to identify the most viable measures through which the state can interfere in order to control the individuals who are threatening repeatedly the safety of the community they belong to. Certain experts and practitioners highlight the failure of rehabilitation measures for "career criminals", arguing instead for the need to institutionalize them in the long run. On the other hand, there are specialists that support the limited capability of a custodial sentence to influence, in a positive way, the behavior of chronic offenders, arguing either that prisons are veritable "schools of crime", or that detention regimes are harmful, degrading and destroy the character of the person, preventing his subsequent adaptation to society.

The general idea is that imprisonment only separates the wicked from the good ones, realizing, through negative discrimination, the relative protection of the community. The recidivists are often the subject of negative stereotypes, being considered, during and after the punishment, to be dangerous, regardless of their behavior after the atonement of the sanction. We can consider this attitude as a "defense reflex" more or less justifiable, which organizes the individual or collective reactions to rejection, avoidance, and marginalization, or exclusion from the others. However, it has been argued that stereotypes serve most of the time to justify aggressive attitudes, contributing to strengthening cohesion within a collectivity, and generating states of adversity between "us" and "them".

It is important to understand that the reactions of avoidance, rejection, marginalization or exclusion by persons who consider themselves threatened, as well as institutionalized supervision measures by specialized social control courts, restrict the ways of individual assertion (Chipăilă 2008,

97). Under the conditions of these types of pressures, an objective diminution of the social integration chances is produced.

Preparing prisoners for release and rehabilitation programs for integration into society

The Penitentiary, in the first phase, requires adaptation and integration to a particular pattern of life, driven by entirely different laws. The establishment of inter-human relationships is made after other considerations and under other conditions, the hierarchy of values acquires another priority, passing through successive deformations to the normal social axiological model, unanimously accepted. There are accumulated inherent adaptive tensions, and many times the inmate does not know the knowledge of the culpability of the offence made, in the existential sense. The dissimulated culpability is the central axis of the characteristic changes that occur during detention. The notion of liberty is emptied of content, disappearing all the sense of belonging to the social, of the desire for active integration.

The preparation for release begins on the first day of execution of punishment and is part of the rehabilitation process of detainees, which has as a goal supporting them in order to achieve the best possible social reintegration. During the preparation for release it is indefinite, the process having a clear beginning, respectively, the moment of condemnation. The central idea of preparing for release is that detention is only one stage in the lives of detainees, and this should be used as efficiently as possible for the purpose of social recovery. Social integration should be related to the specificity of the crime and to each person. The varieties of infractions imply a diversity of forms of reintegration. The legislation qualifies the infraction, specialists in education and psycho-social assistance evaluates the causes that generate dysfunctionalities for each person. More than the intervention of the state institutions (e.g. reintegration programs deployed during the execution of the punishment, and the main resources that are allocated to this program), it is very important the support of the family and the social environment. Social reintegration also means to be taken back by the family and depends on the availability of the family to financially and morally support the condemned person. Maintaining the relations with the family, and where is the case, improving the relations with the family is a priority objective for the social reintegration of the person deprived of liberty (Cioclei 2008, 174). In the community, the assisting of the released person should be accomplished with the help of the family, and the close ones, and be the main objective of the assistance should represent the reintegration into the society, but with all of these, for a successful accomplishment of this objective, it is also necessary the motivation for the involvement and the former detainee's contribution in the planning and the development of the following activities (Balica 2008, 82).

Studying the essence and content of the process of social adaptation of the person released from detention, as well as the analysis of his social-psychological laws, demonstrates that this process is accompanied by multiple problems. The former inmate is forced to stand up some internally, subjectively and externally obstacles, that are not depending on him. These can be divided into two categories: the first category includes problems related to the solution of the basic necessities of clothing, meals, place of residence and work, respectively the establishment of external life conditions of the condemned. In this category, usually, the circumstances are prevailed, determined by objective circumstances that do not depend on the released person's will (homelessness, hiring problems, health problems). The second category depends on the enrollment of the person released in the new environment (the family, the work collective, the appropriate entourage, etc.) and the determined role is the personal perception of the former detainee and his conduct, respectively the subjective factions. All these problems are solved by the different convicts differently, based on the existing conditions and personal possibilities, and they depend on age, gender, studies, profession and other social-demographic parameters of personality (Banciu, Rădulescu and Teodorescu 2002, 106).

In terms of work, in order for it to be effective in the social reintegration of convicted persons, this must be interested in working for the benefit of the community and not in the idea of obtaining a reduction of the prison sentence. Employers demand seriousness from the employee, and often persons who have executed custodial sentences are not motivated to work. In many cases, prisoners prefer to work on the black labor market and be beneficiaries of the minimum guaranteed income that also provides them with access to other social security rights (social aid). In Romania, territorial

agencies offer jobs to convicted persons, but in most cases the proposed jobs are not accepted. For the most part, economic agents, although proposing a series of jobs for people who have served a custodial sentence, do not want to hire people who have been in a detention environment. A study conducted at the level of the country shows that 35% of the economic agents would agree to hire the detainees released from the penitentiary, while 65% do not want to engage people from this category. The same study highlights the fact that 52% of the economic agents, would accept people who have been detained under the condition that the Romanian state would require them this matter, while the 48% will categorically refuse. The practice demonstrates that the former prisoners often violate the work discipline, have a lower qualification, that they have a low ability to learn new things, and that there are frequently causes unpleasant situation at work. This is why, I believe that it is essential to create a different mechanism from that of hiring in the field of work, and of persons released from the detention environment, which will stimulate economically speaking the enterprises in order to employ them.

I believe that the assistance to convicts person the right moment, through specific programs designed and individualized so as to allow them to pass through from to prison life, to life within the community, in which to comply with national law, the rate of social reintegration would increase and as a consequence, the rate of recidivism would decrease. This method would imply, in the case of detainees with long-term condemnation punishments, a gradual turnaround in life, in the collective environment, supporting convicts, to find a job, according to their qualifications/education/level of education. The re-education activity carried out with the deprived of liberty must continue after their release from the penitentiary, by preventing the social marginalization of the former inmate (Bogdan 2012, 201). Starting from these alarm signals, in order to support the reintegration into society and the labor market of former detainees, in order to combat and prevent criminality, various programs have been implemented for the training of detainees in penitentiaries, with a view to reintegration into the labor market when issuing from the penitentiary. The question is if such programs are well thought and realized for the benefit of the detainees.

In the interviews conducted with the recidivists who were executing a privative of liberation punishment in the penitentiaries of Giurgiu, Jilava, Rahova and Târgșor, the necessity of rethinking the aspects related to the socio-educational programs conducted during the period of detention was emphasized. The prisoners argue that the penitentiary environment does not give them the chance to rehabilitate. Those with a low level of education were of the opinion that the programs organized are not effective, since they are intended for those with an intermediate level of instruction, and most of them do not understand what is being communicated to them. Instead, those with a higher school grade appreciated the fact that they don't have anything to learn from these activities, that the offer is not interesting and attractive enough, that the penitentiary did not create all the opportunities to like the work they do. The prisoners do not perceive the effectiveness of long-term programs, considering that their usefulness is strictly limited to the period of detention. Thereby, the main reason they say that they have signed up for various socio-educational activities carried out in penitentiary is to revoke some disciplinary measures or to ensure that their conditional release will not be postponed.

Another benefit, felt by those from the closed regime, is to get out of the cell. Few consider that they learn or learn practical skills. The condemned sustained that the programs that are organized in the penitentiary can't be effective, as long as they take place one hour a week, the rest of the time being spent in the cell with the other detainees. In addition, in the days that the activities are overlapping, they are obliged to opt for only one of them, being unable to participate to all of them. Following a socio-educational program conducted during the period of detention may not be beneficial in the circumstances in which there is no differentiation of the detainees who attend to these programs (Florian 2002, 139). Once this problem of differentiating the detainees according to the level of knowledge, studies, education, age, sex, crimes committed, the family environment, etc. is solved, I am of the opinion that an analysis of the trend in recent years in terms of labor market demand, could offer a perspective of what is needed in the field of qualification.

Although the legislation provides and the competencies of central and local public institutions in the process of social rehabilitation of detainees are listed, I note that the system established through

law of social reintegration of the released persons from places of detention creates many signs of question as long as they do not yield and most detainees re-offend. The probability that the person from the detention area to commit a new infraction will usually materialize in the first three years of release, and many of the incidents of infractions committed are in the first year from release, constitutes 52.4% of the situations. Practically, half of the released inmates, repeat the offense and return to prison in the first year from release. I am of the opinion that this is a period in which it is necessary to have an intense activity, a sense of responsibility, in view of the supervision of the process of social accommodation of the released people, of their usual behaviour, and of their social places. The monitoring of the former detainee, which indicates the fact that he is not applying for a job or give up on the chosen job, the fact that he doesn't have a stable place to live or that the former inmate violates the public order are strong signals to the fact that the process of adaptation is unsatisfactory and there are good reasons for recidive (Tănăsescu 2013, 74). It is also necessary for the society as a whole to promote a tolerance attitude regarding the former detainee, therefore considering it to be a person whose problems can be solved, not by isolation from the community but by inclusion in it. In reality, however, this does not happen, as they carry the burden of jail for the rest of their lives, most of the time. Perhaps the approaches here should be changed, that is, to promote tolerance and acceptance towards condemned persons and not only. We can say that the convicted person suffers a double punishment, the legislative and the labels worn in society.

Conclusions

Imprisonment and society are two different worlds in almost all aspects, and is not realistic to think that an individual formed in the environment of detention can easily survive without difficulty outside the penitentiary. Any criminal conviction remains the more or less visible shadow of the former detainee, in spite of its subsequent rehabilitation, and the background of survival in the penitentiary system may appear as a recidivism and criminal career, and this environment has a strong influence on crime. In order to reduce the frequency with which the recidivists commit criminal acts, it is necessary to improve the institutional and legislative framework in the field. Thus, at present, the former prisoners return to the community without reference to some social services and without a well-established intervention plan. Let alone, it is unlikely that they will have the ability to avoid situations and contexts that determined their incarceration. Also, it is important that support programs for release to be designed in a way that will prepare detainees for the moment they will return to the community. This is why, it would be helpful to include, among other things, the extension of the privileges associated with the visits of the family, the permissions, the familial and the occupational counseling programs. Beneficial will be the involvement of detainees' families in these programs. Persons with infractional conduct must be offered the opportunity to correct their behavior and to be able to reintegrate successfully into the community after being released from the penitentiary. However, although the social reinsertion of this category of population has become one of the priority objectives of governmental activity, in Romania the interest in this aspect is almost inexistent.

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Analysis the Traces Identified in the Case of Violent Crimes

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ABSTRACT: The studies and research show that in almost all countries of the world, violent crimes are on the rise. Against this background, the criminal prosecution authorities - the police and the prosecutor's office, as institutions of the rule of law, improve investigative procedures, using the scientific means and methods necessary to prove guilty and to prosecute the perpetrators. Human-environment interaction gives rise to the most different traces that can be useful in determining the time or succession of occurrence events, as well as determining human behavior in this process. Any human activity deployed in time and space, through physical movements, leaves in that place different changes from the previous situation, which is preserved for an appreciable period of time. Depending on all the elements presented, you can reconstitute the dynamic picture of the deed. The traces come to occupy the central place in science of forensics, so that at present no one can imagine a crime committed by physical movements of the person, without the proper traces being made at the place where it was committed.

KEYWORDS: crime, forensics, investigation, movement, police, traces

Introduction

The trace is a change created at the scene of the crime and in the process of committing the crime, by physical movements at that time, by those involved in criminal activity, useful to forensic research. The first condition highlights the need for a causal relationship between the offense and the change made. The second condition is limited to the need for the modification produced to be useful for forensic research. According to the Code of Criminal Procedure of Romania, in article 197 there are objects as material evidence that contain a trace of the committed deed, as well as any other objects that can serve to find the truth are material means of proof. According to the same article, criminal assets are used as evidence which have been or have been used to commit an offense, as well as objects that are the product of the offense (Code of Criminal Procedure of Romania).

According to their training, traces are classified into: reproductive traces: static (trace created by a car tire) and dynamic (a trace created by the ax in the wood mass).

By the degree of plasticity of the receiving object:

- deep foot step: traces in clayey ground, in the snow;
- surface traces: stratification: mud on shoes, sweat and destratification: traces created on a dusty surface;

By the nature of the creative object:

- traces of hands and feet; traces of lips, teeth, created by clothing;
- biological traces (Asanache and Dragomir 1976).

Traces of hands

Traces of hands are created as a result of human activity, being produced by hand contact with various environmental objects by supporting, gripping, pushing, etc. Of these, the human body is created directly, those of the hands were and are also used when identifying the person to a much greater extent than any other type of trace. This is due to the numerous lines running through the faces of the fingers and fingers. The traces found at the scene are called "finger traces" and the ones that create experimental are "digital impressions", papillary relief photographs (traces or impressions) are called "dactylograms".

Due to papillary lines, traces of hands are formed when the objects in the environment touch with the flanks or the surface of the palm. On objects with dry surfaces are created when hand and

object received are relatively clean. This is explained by the existence on the palm and the breaking of a secreted substance of the skin, the substance made up of organic and inorganic compounds, which does not evaporate with the passage of time. Traces on the surface of the inviting object is kept, with the details created, a relatively long time.

The issues that can be solved by the digital tracing and palm tracing expertise are as follows: - identification of the person who left the next incrimination, - identification of the unknown body after the papillary drawings, - verification of the fingerprint signatures, - identification of the person from whom two or more many dactyloscopic files written on different names, the establishment of the route formation mechanism, the delineation of partially overlapped paths. Dactiloscopia is "science on the study of papillary drawings" (Constantin Turai). By means of digital traces, if they are pretty clear, with sufficient detail, it is safe to identify the person who created them. Achieving this performance in criminality research can be achieved by the anatomical relief on the front of the palm, and especially by a flank, which is in the form of ridges and fingers. The ridges of this relief, in the form of a parallel crest, are called papillary lines, and the recesses, interpapillary wrinkles, and their whole ensemble is called papillary relief or papillary drawing.

The visible traces are left by fingers dirty with coloring substances such as blood, paint, ink, mud, dust, cement, soot, etc. Fingers dirty with blood or paint and repeatedly applied on different objects will leave the fingerprints in the form of dents, and then the creases of the crests will be white and those of the colored hides. In this case, the hand marks will appear as a negative of the papillary drawings.

Papillary reflex properties (Beliş et al. 1995):

- Longevity: The papillary relief forms before birth, it is completed by the sixth month of the fetus and continues until the skin breaks down in the process of rotting.
- Fixity involves preserving the original features without change in the course of existence, with the exception of growth.
- Uniqueness: Every person has his or her own, unrepeatable of the other person.
- Inalterability: Lifetime can not be wiped out by physical or chemical means if the dermis layer is not destroyed, called papillary relief or papillary drawing.

Traces of feets

Traces of feets are an important category of footprints inevitably created at the scene. However, they are found or used in rarer realistic identification research, believed to have fewer possibilities for individualization, due to the relatively small number of characteristic elements, except those specific to the papillary ridges on the sole of the foot. First of all, many times, in the case of such traces, the papillary relief is either very bent or when the trace has been stuffed with foreign substances, so in both situations there is little of its details. Secondly, very often that object does not have a surface smooth enough to receive and retain the papillary relief detail. Traces of foot are easily discovered at the scene. Fixing can be accomplished by several procedures: by describing in minutes, shooting, molding (deep), copying with the adhesive film (surface ones).

- The description refers to: the area, the nature of the receiving object, its color, dimensions (heel, sole, length, width, height);
- Taking a picture involves a photo of the main objects with the device on the tripod, adequate illumination; detail of photo with perpendicular lens, scaled photo;
- Mounting by molding is performed after the first two processes; it strengthens the trace if it is formed in snow or sand, then pour the molding paste, usually from dental gypsum;
- Copying with the adhesive film is done after the handwriting process.

Tracking - consists of a series of several consecutive traces created by both feet on the trail.

Footprints created by or with the foot are as follows (Palcu 2006):

- The traces of the foot plant, or the foot formed by the foot, are the most valuable for individualization, as the plant print with its own papillary characteristics as well as the morphophysiological particle can serve to a certain identification of the individual, equivalent to

fingerprint identification. Planetary impressions, or even better, the plantar papillary design can have fingerprint, the same importance as digital or palm impressions.

- Footsteps of leg or stockings reproduce the general shape of the foot plant, its regions and fabric. They can serve for group determination and even identification.

- Traces of footwear, if properly formed (such as static, deep, soft ground), may reflect characteristic features that are useful in identifying, although they have fewer individual elements.

Traces of teeth and lips

Human teeth, in their general appearance of the species, have many general and individual characteristics that can be observed in any person either in his or her usual speech or in the traces created by biting. In the process of speech, the person discovers his front teeth, incisors and canines, and thus can be identified as criminalistic within the portrait spoken. By biting leaves on the welcoming objects the characteristics of incisors and canines, after which it can be identified. The individual features of the incisive and canine teeth of the human being that distinguish them from one individual to another are: varied width, the different distances between them, the difference in position on the two arches, the degree of wear, some peculiarities created by medical treatments (The Criminal Law Magazine 2011).

To these traces, created on the human body, one has to bear in mind that after the bite production, the skin relaxes, causing changes in the created traces in terms of the width of the teeth and the distances between them. However, through the traces of teeth printed on the human body, it is possible to arrive at definite conclusions about suspects.

The tooth trail offers, from the scene, the first information about the constitutional type and the age of the person who created it (Mircea 2001).

It has long been found that human lips have particularities through their coral wrinkles. It is established with certainty that the coral lines of the lips have various individual characteristics with an appreciable duration of existence in terms of the shapes and positions they have in the whole of the labial relief. These lines, by directly contacting certain objects in the surrounding world, leave traces on the objects, after which they can be reached until the labial relief is identified. The lip traces, in most cases, are latent. For this reason, the judiciary has to look very carefully at the objects of the crime scene and, after discovering them, proceed to highlight them. Always when the traces of the lips are visible, they are easily discovered by simply examining the suspect objects with the naked eye. However, very rarely visible lips are created, only when lips are lipsticked.

Traces of blood

The presence of blood traces at the scene of the crime in all cases implies the injury of the victim's body integrity. In general, such types of traces are found in the case of murder, robbery, rape, body injury, attempted murder, etc. Interpretation of blood has proven to be extremely vital in cases where the cause of death was questionable, and the determination of whether it was murder, suicide, accident or natural death was necessary for the criminal process. Being a fluid mixture made up of cellular and plasma components, blood, when it comes from the body into the external environment, as a result of the traumas produced by various forces, it naturally obeys the laws of physics.

The form of blood traces encountered at the site of an offense is mainly influenced by the amount of blood that has emerged from the human body, the speed at which it moves to the receiving surface, and the angle at which it meets the surface. Referring to these key factors, there are several types of blood traces, such as (Moraru 1997):

- Traces formed by contact or impact traces with different speeds;
- Traces formed by the free fall of blood droplets on horizontal surfaces;
- Traces formed by splashing, splashing, throwing or designing blood.

Traces formed by contact include: scratches and prints made as a result of the dynamic contact between the blood supply and the various areas of the crime scene. These may occur as a result of static contact between parts of the aggressor's body or previously contaminated objects.

Traces of sperm, saliva and hairs identification

Semen traces consist of seminal fluid resulting from the secretion of male seminal glands during sexual intercourse or sexual perversion, masturbation, nocturnal pollution or ejaculation due to pathological conditions. They are formed by depositing the sperm removed on different supports in the immediate vicinity of the place where ejaculation occurs, such as intimate linen, sheets, clothing, carpets, body of the victim or the offender, especially on the thighs, abdomen, pubescent brushes, hands, breasts, breasts, anus, vagina (Ifrim and Niculescu 1988).

Their forensic value is of particular importance in investigating offenses related to sexual life, certain murder crimes in suicide cases of men by hanging. The forms and aspects of the presentation of sperm traces depend in most cases on the nature of the support, the way the semen has come into contact with the support, the length of time elapsed between training and the time of discovery, the diseases suffers the individual, and if left by several men, it also influences to a great extent this factor. For the success of this kind of expertise, we recall the need to comply with the rules of lifting and shipping urgently to the laboratory of biological stains under conditions that do not allow their alteration, such as the packaging of wet objects bearing biological traces in plastic bags or bags. It is very important that caution should be exercised when harvesting and packaging the samples (not only biological ones), preventing confusion by reversing them. Expertise to determine the genetic profile based on seminal traces, as well as blood or saliva, is one of the safest means of investigation.

Grafoscopic expertise

It is ordered in cases where, at the scene of the crime or at the victim's home, documents are revealed from which the data may be revealed regarding the deed or even the person of the author, typical of which is letters of threat. The graphological expertise is also indispensable in the case of the abduction of persons, when it is necessary to establish the authenticity of the victim's writing, which can even be added to the decipherment of some of his messages, concealed in the text.

Ballistic expertise

The forensic expertise of the main traces of the shooting consists of examining the inlets and outlets of the channels formed both on the human body and on the objects with which the bullet has come into contact. They are also subject to scrutiny and riches.

Ballistic expertise is aimed at two directions:

- Identifying or determining the category of the weapon that was fired, following the trail left on the tube and on the bullet (Stancu 2010);
- Studying the main and secondary traces of the victim's clothing in order to determine the direction and distance from which it was fired.

Regarding the expertise of the entrance openings, a first problem to solve is whether to determine whether or not these holes are the consequence of using a firearm or a weapon of another nature. The answer can be based on the study of the general characteristics reflected by the log entry, characteristics that differ depending on the nature of the object being shot (tissue, wood, metal, etc.).

Along with these features of the orifice are also considered the individual characteristics specific to the secondary factors of the shot, such as: traces of soot, burns, tattoos and gas breaks, as well as friction and metallization rings formed regardless of the distance from which it was fired. All these aspects are classified on the basis of the comparative examination between the traces in question and the traces of the experiments carried out with weapons suspected to have been used on supports similar to those found on the spot (Goşa 2009).

By its complexity, ballistic expertise requires the same close co-operation between the forensic expert and the forensic doctor.

Conclusions

The tracking activity on the spot has a particularly important role to play in clarifying all the circumstances in which the offense under the criminal law has been committed and the forensic interpretation by the specialists using research methods: logical reasoning, observation, description, experiment, analysis, measurements, etc. can be a guarantee of transformation of each trace into the sample and the formation of a solid probative system, which will support a fair solution that will be pronounced in that case.

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Understanding Preservice Mathematics Teachers' Technology Use: Some Pedagogical Issues

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ABSTRACT: Becoming technology literate citizens has gained great importance in recent decades. Technology also has become crucial for the teaching and learning of school subjects as well as the workplace. For successful technology integration, teachers should have adequate pedagogical and technological knowledge, beliefs and attitudes. The aim of this study is to explore how PMTs describe characteristics of a good teacher who integrates technology into instruction, what they would consider when they teach with technology and what kinds of problems they anticipate in their future classrooms. The participants are twenty senior pre-service mathematics teachers enrolled in a four-year teacher preparation program in a state university in Turkey. The study used an online form to collect data. We analyzed participants' written responses using the technological pedagogical content knowledge (TPCK) framework. Findings indicated that participants considered issues such as technical knowledge and skills, content knowledge, the pedagogy of using technology, the interrelation between content to be taught and software, and time constraint. With regard to students, participants anticipate problems such as negative attitudes towards mathematics, mathematical misconceptions that might emerge as a result of inappropriate use of technology, distraction and time constraint. The paper will propose recommendations for teacher education programs.

KEYWORDS: preservice mathematics teachers, technology integration, preservice teacher preparation, technological pedagogical content knowledge (TPCK)

Introduction

Technology is an important part of our daily life. Today's citizens need to work and learn with technology. Advancements in digital technology also affected educational technologies. Among the school subjects, mathematics has a special place in instructional technologies. Many mathematics curriculum documents around the world emphasize that technological tools should be an integral part of mathematics teaching (NCTM, 1989, 2000; DfES, 2013a, 2013b). Many studies indicate that technological tools promote conceptual learning in the context of mathematics (Noss & Hoyles, 1996; Knuth & Hartmann, 2005; Habre & Abboud, 2006).

For successful technology integration, teachers should have adequate pedagogical and technological knowledge, beliefs and attitudes. Knowledge required for effective use of technology is defined as Technological Pedagogical Content Knowledge (TPCK) first by Pierson (1999) and Niess (2005). It is based on Shulman's (1986, 1987) notion of pedagogical content knowledge (PCK) which described the teacher's knowledge as the interaction of pedagogical knowledge and content knowledge. It is what distinguishes a teacher from an expert. Pierson (1999) and Niess (2005) integrated the technology component to define the knowledge required for successful technology integration (See Figure 1).

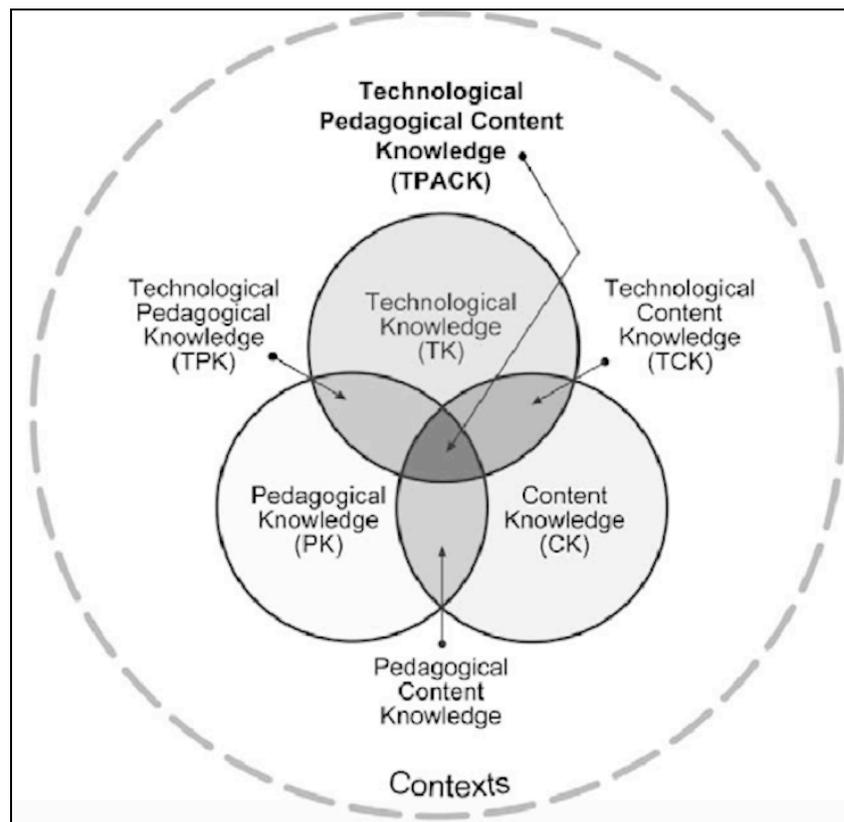


Figure 1. Components of Technological Pedagogical Content Knowledge (© 2012 tpack.org)

Mishra and Koehler (2006) define each category and intersections of categories. Content knowledge (CK) is concerned with the topic to be taught e.g. knowledge of fractions. Pedagogical knowledge (PK) is the knowledge of classroom management, instructional principles etc. Technical knowledge (TK) includes knowledge and skills for using technological resources. Having the knowledge and related skills represented by these three distinct knowledge categories is not enough to successfully teach with technology. Teachers also should have knowledge regarding the intersections of these knowledge categories. Pedagogical content knowledge (PCK) is the knowledge of instructional strategies for teaching a particular topic e.g. structure and teaching strategies for teaching fractions. Technological content knowledge (TCK) is concerned with knowing different ways to represent the content using different technological tools e.g. affordances and constraints of different software to represent fractions. Technological pedagogical knowledge is related to general pedagogical issues that raise in technology-enhanced lessons e.g. knowledge and skills for classroom management that can change with the existence of technology in the classroom. TPCK "is an emergent form of knowledge that goes beyond all three components" (p. 1028).

The aim of this study is to explore how well prepared the preservice mathematics teachers are to teach with technology with appropriate pedagogy. For this aim, we will use the TPCK framework as a tool for data analysis.

Methodology

This paper reports on a descriptive study that sets out to investigate how well-prepared preservice mathematics teachers are to teach with technology with appropriate pedagogy. The participants are twenty senior pre-service mathematics teachers (PMTs) (15 female, 5 male) enrolled in a four-year teacher preparation program in a state university in Turkey. PMTs took mathematics education courses such as mathematics, geometry, and algebra teaching methods courses. Technology-related courses PMTs took are Information and Communication Technologies in Mathematics Education I and II.

The study used an online questionnaire to collect data. The aim of this form is to find out different ways of using technology among participants. PMTs filled the questionnaire before they

took Mathematics Instructional Technologies and Material Design course. In the context of this study, we focused on the following three questions:

- (a) What are the features that a mathematics teacher should have to teach a technology-supported lesson?
- (b) What would you consider when incorporating technology into your lessons if you were working in a school with technological equipment?
- (c) What kinds of problems of using technology do you anticipate for your future students?

We used content analysis to analyze the answers to the above questions. Two themes emerged from the analysis of the answers to the first question: teachers' knowledge and personal characteristics. We used the TPCK framework to categorize the first theme. Open coding was used to analyze the second theme. We also used TPCK categories to analyze the answers to the second question. Again, we used open coding to analyze the answers to the third question.

Findings

This section will present the findings regarding each question in the questionnaire. features that a mathematics teacher should have to teach a technology-supported lesson. Table 1 presents the categories of features that a mathematics teacher should have to teach a technology-supported lesson.

Table 1. Categories of characteristics that a mathematics teacher should have to teach technology-supported lessons

Categories		Codes	n
TPCK components	Technological Pedagogical Knowledge	Classroom management	13
		Instructional strategies	9
		Suitability for students	4
		Other	4
	Technological Knowledge	Technical competency	16
	Technological Pedagogical Content Knowledge	Adapting to students' levels	5
		Topic-software compatibility	3
		Other	1
	Content Knowledge	Adequate CK	6
	Pedagogical Content Knowledge	Adequate PCK	4
	Pedagogical Knowledge	Adequate PK	3
	Technological Content Knowledge	Adapting the software to the topic	2
	Personal Characteristics	Innovative	10
Being up-to-date		7	
Open to learning		1	
Love one's job		1	
Other		1	

In Table 1, note that since each participant might have noted down more than one answers, the total number of frequencies for all categories is greater than the number of participants. As can be seen in Table 1, teacher knowledge (n=70), rather than personal characteristics (n=20), came to the forefront. In the category of teacher knowledge, the frequency for technological pedagogical knowledge (TPK) is 30. Within TPK, classroom management (n=13), instructional strategies (n=9) and adapting technology to students in a technology-enhanced lesson (n=4) are the sub-categories. One of the participants mentioned the following with regard to classroom management:

Since we use a different tool in the classroom, control of the classroom and the lesson become more important. Both inspiring interest and keep the students' attention and adhering to the content to be taught. These are very important. (PMT2)

The teacher's classroom management should be good. Since it's gonna be online, you have to make sure that students use the computer for the aim of the lesson. (PMT10)

Another sub-category of TPK is related to instructional strategies. Participants mentioned about different strategies such as asking the right questions, ensuring participation and finding daily-life examples.

The second most frequent category is technical knowledge (TK). 16 answers were related to the technical competence of teachers.

The teacher should a grasp of the technological tool that she would choose. Because of time management issues. It would be better if teachers wait until they will be competent with the software they just discovered. (PMT4)

Another category is technological pedagogical content knowledge in which technical, pedagogical and content knowledge interact with each other. Within this component, various sub-categories emerged (See Table 1). They mentioned that teachers should make the content comprehensible to students with technological tools (n=5) and present the mathematical content with the most suitable software (n=3):

When relating the content and software, you have to consider the level of students to promote learning. For example, there are a lot of resources for GeoGebra. When presenting them, you have to choose the ones that are suitable for the math curriculum. (PMT13)

The teacher has to discover which software is suitable to make the content comprehensible for students beforehand. (PMT1)

Another participant mentioned that the teacher has to have adequate content knowledge since the compatibility of content and technology is effective for student learning and understanding. These explanations reflect the interplay between technology, content, and pedagogy.

As can be seen in Table 1, participants also referred to other categories such as content knowledge (n=6), pedagogical content knowledge (n=4) and pedagogical knowledge (n=3) with lower frequencies.

When it comes to personal characteristics, sub-themes such as innovation, being up-to-date become prominent which are exemplified with the excerpts below:

A teacher who teaches with technology should be open to innovations and must investigate. Because a teacher should follow and use technologies which change quite rapidly. (PMT2)

The teacher should follow the advancements in technology closely, be open to innovation and not be narrow-minded...to give a simple example, I submitted some of my coursework via online classroom. I did not have to submit the paperwork. The teacher must be competent with this kind of applications which make life easier. (PMT14)

As can be seen from the excerpts above, PMT2 and PMT14 point out to personal characteristics (e.g. being innovative) rather than articulating the types of knowledge required to achieve this innovation.

Another question in the online questionnaire was related to what would PMTs consider when incorporating technology into their lessons if they were working in a school with technological equipment. Categories emerged are presented in Table 2 below.

As can be seen in Table 2, PMTs' answers are mostly related to technological pedagogical knowledge (n=22). In other words, they tend to take pedagogy of technology when teaching a lesson. Within this component, they mentioned that they would ensure students' active participation (n=8), look for the suitability of technology for students' levels (n=7) and use the time efficiently since the time-management is an important issue in technology-enhanced lessons (n=4). PMT8 who mentioned about students' active participation, emphasized the importance of students' active use of technology rather than using technology as a demonstration tool. Another participant PMT7 wrote the importance of taking students' levels of technology use into account.

Within the technological pedagogical content knowledge category, one of the sub-theme was related to the compatibility of content and software (n=6). PMT1 wrote the following:

I would be careful about the compatibility of content and software. I don't think every topic can be taught using every software. I think GeoGebra is more suitable than Graphic Calculus to teach the concept of slope because it's more visual and easier to use. In sum, I would consider the content of the software. (PMT1)

Table 2. The findings of what PMTs consider when using technology in lessons

Categories		Codes	n	
Teachers' Knowledge	Technological Knowledge	Pedagogical	Student centered-active participation	8
			Suitability for students	7
			Timing	4
			Other	3
	Technological Pedagogical Content Knowledge	Compatibility of content and software	6	
	Technological Knowledge	Grasp of technology	3	
	Technological Knowledge	Pedagogical	Classroom management	2
	Other		5	

As can be seen from the excerpt above, PMT1 compares two software based on what each software could do. The other two categories are classroom management which is related to TPK and grasp of technology which is related to TK.

The third question in the questionnaire was related to the kinds of problems with using technology that PMTs anticipate for their future students. Table 3 presents codes emerged from the data analysis of responses.

Table 3. Anticipated problems with using technology

Codes	n
Students' lack of interest in technology	7
Limited access to technology	7
Possible problems	5
Problems with students' understanding	3
Negative attitudes towards mathematics	2
Crowded classrooms	2
Time constraint	2
Technical problems	1
Other	2

As can be seen in Table 3, the most frequent codes were students' lack of interest in technology and limited access to technology. Interestingly, seven PMTs taught students would not be interested in using technology. One of them mentioned that students might think that technology would make the lesson harder.

Conclusion

This study explored how well prepared the preservice mathematics teachers are to teach with technology with appropriate pedagogy through a descriptive study. We used the technological pedagogical content knowledge (TPCK) framework to describe how PMTs describe characteristics of a

good teacher who integrates technology into instruction, what they would consider when they teach with technology and what kinds of problems they anticipate in their future classrooms.

Although participants just started the Instructional Technologies and Material Design course and did not start the module which focuses on the pedagogy of using technology, they surprisingly referred to various components of TPCK. Findings indicated that participants considered issues such as technical knowledge and skills, content knowledge, the pedagogy of using technology, the interrelation between content to be taught and software, and time constraint. With regard to students, participants anticipate problems such as negative attitudes towards mathematics, mathematical misconceptions that might emerge as a result of inappropriate use of technology, distraction and time constraint.

Considering the findings, we propose recommendations for teacher education programs. First, the study indicated that the TPCK framework was useful to explore how PMTs describe important aspects of using technology in mathematics lessons. Second, we recommend teacher educators should take pre-service teachers' preconceptions into account before they take courses on the pedagogy of using technology. Revisiting their preconceptions during such courses would help them articulate their ideas about effective ways to teach with technology.

Acknowledgments

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Conditional Liberation - One of the Measures to Achieve the Purpose of Criminal Punishment

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ABSTRACT: The offense as a fact forbidden by the rules of criminal law cannot exist without the unavoidable consequence of criminal liability, which, in its turn, would be without object without a criminal sanction, without a punishment. Neither punishment can be conceived without the existence of criminal liability and it is based only on the offense. Conditional liberation constitutes a measure of both criminal and social policy that is particularly important for achieving the purpose of punishment. Conditional liberation is conceived as an incentive for convicts who give evidence of correction by reducing the period of deprivation of liberty, being designed to accelerate the process of re-education and social reinsertion of the convict.

KEYWORDS: conditional liberation, convicts, measures, punishment, recidivists

Introduction

The conditional liberation was introduced for the first time in Romanian Criminal Law in 1874, only for juveniles, and later through the Penitentiary Law of July 30, 1929, it was generalized in the sense that it was possible for all convicts of deprivation of liberty. In 1934, the Legislative Council revised and completed the draft Criminal Code of 1928 and 1933, which were the basis for the promulgation of the High Royal Decree no 471/03.17.1936. Initially, conditional liberation was granted only to those who have been sentenced to temporary sentences, those sentenced to life imprisonment being excluded from the benefit of this institution. Likewise, no recidivist convicts could benefit from conditional liberation (Bălășescu 2015, 22). The limitations of conditional liberation were criticized at that time, and it was established that nothing would dare to suppose that a convicted person would not change his behavior, showing good conduct before the full deprivation of freedom to which he was condemned. The same applies when we talk about recidivists, including a recidivists of the occasion (Tanoviceanu, 1927, 423-424). *However, who is responsible for the crimes of non recurrent recidivists who take advantage of the law clemency?* These two limitations have not found their place in the Criminal Code since 1936 or later. According to article 153 point 2 of the Law on the organization of penitentiaries and prevention institutions of July 30, 1929, convicts could get conditional release if they met several conditions, among which:

- convicts of criminal punishment have executed at least half of the sentence;
- those sentenced to correctional punishment to have executed at least one-third of the sentence, but not less than 6 months (Bălășescu 2015, 23-24). The Criminal Code adopted on June 21, 1968 and entered into force on January 1, 1969 distinguishes between the granting of conditional liberation, between offenses against State security, against public order or the offense of murder, or crimes against peace and mankind, or crimes against which produced a significant damage to the national economy and other crimes, the penalty fractions to be executed being higher for the former (see article 60 of the Criminal Code 1968).

Conditional Liberation – notion and practical aspects

Conditional liberation is one of the ways of judicially individualizing the execution of punishment consisting in the release of the convict from the place of detention before fully executing the custodial sentence at which he was convicted, namely life imprisonment or imprisonment, with respect for certain terms. Thus, the person of the convict, regardless of the nature of the offense committed and the manner of committing it, with or without violence, if he fulfilled the conditions provided by article 99 and article 100 of the Criminal Code, he may be released conditionally.

Although in the literature it is stated that this institution has an optional character, not representing a right, but only a general vocation of the convict (Udroiu 2014, 184), the practice

shows that it does not apply as an exception but as a generality, constituting in a way or another right of the convict, who fulfills the conditions sine qua non provided by law, will be compulsorily released conditionally.

From the definition given to punishment, namely a penalty of criminal law, which is a measure of coercion and re-education, established by the law and which applies to the offender by the court, in order to prevent the commission of new crimes (Pascu, Uzlău 2013, 341), it is without doubt its purpose, preventing the commission of new offenses.

By preventing the commission of new offenses is meant the prevention of the commission of new offenses on the part of the person who has been subjected to a punishment, the special prevention, which will be accomplished through the totality of the activities to which the convict is subjected during the execution of the punishment and the prevention of committing crimes the part of any other person, general prevention, which is largely achieved by the resonance of a conviction to a punishment (Antoniu 1998, 19).

The problem arises when this conditional release no longer contributes to the purpose of punishment, but instead creates the legal framework for action by certain criminals. In support of this assertion, we will come up with several arguments throughout this paper.

Although, apparently, in its functionality the penitentiary cannot be contemporary with the social moment, the prison system can progress. The evolution of an institution is determined by the emergence and promotion of new organizational needs, cultural needs, the need for identity, the existence of mechanisms for preventing and fighting crises (Gheorghe 2005, 196). Thus, it is imperative that all the state institutions involved in this process that we speak of are held accountable, and those who deviate from the legal norms to respond according to the positive law. A particularly important role is to prevent it (Prevention is the set of measures addressing the factors that determine or favor the occurrence of socially dangerous facts with the aim of restraining and annihilating the harmful effects thereof - Gheorghe 2005, 175), in order to prevent a person from committing an offense. And if it has been done, and this is not a single one, but it becomes more or less a social phenomenon, to take preventive measures, including by modifying the legal provisions.

Conditional liberation, either from life imprisonment or imprisonment, is conceived as a stimulant for convicts. It is based on the premise that convicts, including criminals, may be wronged, and this is ultimately the purpose of punishment. According to the law, once the convicted persons are admitted to the penitentiary, the necessary activities are carried out for their release. Each penitentiary unit itself is organized as a society, namely convicts can work, volunteer, participate in various courses, can be visited, enjoy daily walk, receive and buy various goods, support family members and others, is certain that certain restrictions of movement, freedom, according to the execution regime of the person, must be respected, which is very normal, since we are still talking about an offender (Because, as a prototype of the totalitarian institution, the penitentiary shelters thousands of criminals for a certain period of time, who must serve their punishment contrary to their will. All soul infirmities go to the surface when shame disappears when they have nothing to risk, feeling alone and abandoned by the family. At that time, there is a need for compensations that make condemned men to be hard to imagine. "When destructive violence occurs, it translates the confusion, the absence of perspective, sentimental to being caught in a trap, without the hope of leaving" - see Boiangiu in "Dilema" no 346).

Corollary to the said, from an isolated institution of society, the penitentiary must be a meeting place for community interests, social policies in criminal matters, a source of ideas for effective social interventions (Gheorghe 2005, 196).

In the following we present a case study:

The first serial killer of Brăila, F.M., has three murders, three rapes, robberies, imprisonment and attempted murders. He killed three people with cold blood in 1992 and then a third person. The victims were two women and a man, unobtrusive, octagonal. He raped the victims, and because they resisted, he killed them. He was released conditionally by the court in 2013 at the proposal of the Brăila Penitentiary Commission, considering that the time has come for him to reintegrate into

society. But it turned out that he does not deserve this leniency from the judge and the legislator, he killing again (Antonescu 2017).

Most likely, the cold-blooded recidivist in the detention period was diligent in work, disciplined, gave good evidence of straightening, and convinced the committee that he deserved to be released to reintegrate into society. However, it seems that the problem of sexuality has not been solved, not even improved. These offenses arose precisely because he was trying to have sexual relation with these people, but he was rejected, and by not controlling his sexual instincts and motions, raping the victims and killing them. The victims were part of a certain category: those who could not defend themselves, the elderly, those living alone. The relatives, as well as the policemen who oversaw it, hoped that he had finally escaped the sick obsession of violating and killing elders. What will happen if he is conditioned liberation and will again relapse?

De Lege Ferenda proposals

It cannot be denied that the law, especially the criminal law which, as the famous European Court of Human Rights says, assumes the role of “guard dog” of the social order (see C.E.D.O., Decision *Observ and Guardian v. Great Britain*, dated 26.11.1991, 59), and its purpose is to defend the fundamental values of life in society, must also prevent and resolve, through its provisions, all the practicalities, the problems facing society, especially when in the middle is the right to life.

In another train of thoughts, the general prevention of the commission of new offenses is accomplished by establishing in law acts that constitute offenses, the members of the society being aware of the consequences of committing such acts, as well as of the legal limits of sanctioning them. We believe that through a correct, rigorous and comprehensive regulation of the conditions of granting conditional release, the general prevention of the above speech will be ensured.

At present, the Criminal Lawmaker states the conditions for the granting of conditional liberation in the case of life imprisonment in article 99 para. 1 of the Criminal Code, and the conditions of conditional release in the case of imprisonment in article 100 para. 1 of the same normative act. The conditions for the granting of conditional liberation in the case of life imprisonment and imprisonment are similar except for the fraction or duration of punishment actually to be executed and the condition that the sentenced person to be found in the execution of the sentence in a semi-open or open sentence in case of imprisonment.

We believe that these conditions must be exacerbated when the subject of conditional release is a criminal, who committed the deed through violent means, which violate the most important social values and which denotes a high degree of danger, but also a life style of the offender. Also, when referring to criminals of serious crimes such as murder, qualified murder, rape, out of the considerations presented, they should not benefit from this leniency.

What happens if a convicted person for serious crimes that interfere with the most important social values of man by means that attract the abhorrence of others and who have certain sexual “deviations”, for example, released conditionally, relapses? It is moral, normal for the legislator to create the legal framework by which, after being imprisoned again, to be conditional liberation?

We believe that it is imperative to amend the legal provisions governing the institution of conditional liberation in relation to offenders committing particularly grave crime, by ways, means that attract abhorrence of those who know of these facts (murder, qualified murder) and which reflects a style of life, and the offenses are not committed by momentary impulses. Concretely, these criminals cannot benefit from the provisions of this institution, precisely because of the need for the purpose of punishment to be achieved and no more cases of recidivism.

With reference to article 100 of the present Criminal Code, which sets out the conditions of conditional liberation in the case of imprisonment, among which is that the sentenced person is in the execution of the penalty in a semi-open or open regime (Toader 2017, 55), we have the opinion that the offense and the means of committing it. Since, according to the Decision no. 157/2016 approving the Regulation implementing Law 254/2013 on the execution of sentences and detention measures, establishes that the semi-open regime can also be applied to detainees initially classified

under the closed regime but who have had good conduct and have made diligent efforts for social reintegration (article 74, para. (2), let. c), Romanian Criminal Code).

Psychological aspects

From the point of view of personality, some psychologists believe that human is a being eminently oriented towards hedonism, so he does not avoid the facts that ultimately cause him the greatest inconvenience. This was explained by American psychologist O.H. Mawrer in that when an action has two consequences, one positive and another negative, of sanction, both consequences being equal in weight, then the conflict is solved according to the closest possible consequence in time. In the case of an offense, the immediate consequence is the positive one, that is, the one that offers immediate moral or material satisfaction, as long as the legal sanction is more remote and compared to the recidivist with a degree of uncertainty (Butoi and Butoi 2004, 61-62).

In a paper in 1955, Harold Linder tells us that criminal situation occurs when predisposing motivations are “ignited” by the circumstantial environmental factors, and under such conditions, criminal behavior is an attempt of the individual to relax by resolving internal tension and restoring the initial balance, as we have seen in the case presented above. (Butoi and Butoi 2004, 64).

Recidivists are individuals for whom crime is a way of life, and they are more dangerous. With certain personality traits, such as intellectual immaturity, increased impulsivity, aggressiveness, emotional indifference, egocentrism, opposition tendency, skepticism, low resistance to stimuli, they start criminal activity through facts that do not present a high degree of danger (Ibidem, 68), *exempli gratia* theft and culminating with some particularly serious crimes: robberies and murders

The court cannot ignore the absence or existence of a criminal record of the nature of the offense, but also of the detainee when deciding on conditional release, since his attitude is particularly important past the requirements of criminal law. The success of the first offense contributes as an incentive for other criminal offenses (Ibidem).

Our opinion is that the nature and manner of committing the offense, whether or not it was committed by violence, must be relevant when analyzing the person by the conditional liberation commission and/or when determining the execution regime in the sense that it is strict enforcement of the execution regimes according to Law no 254/2013 on the execution of the punishments and the deprivation of liberty ordered by the judiciary bodies in the course of the criminal trial shall also be made according to the deed committed.

Conclusions

Regarding criminals such as those presented above, relapse is just a matter of time. In their case, we did not wonder if they would commit crimes, but when. We all have to ask this question, even the state authorities, and the bodies empowered to find solutions to the existing precedents and to the many cases that do not cease to surprise us. The Romanian Criminal Legislator itself, as legal provisions, to prevent such acts.

The proposed *de lege ferenda* aims at ensuring the scope of punishment, namely to prevent the commission of new offenses and, on the other hand, to respond to the present needs of the community so as to avoid creating a framework legal framework by which dangerous perpetrators can relapse.

Education for the prevention and fight against crime, including when it comes to recidivists, also includes awareness among all generations, especially young people, of the particularly important role of our state's struggle for social defense against crime, formation and modeling at all ages of life, justice, understanding of the objectives, content and purpose of the struggle to prevent and combat crime, the special awareness of each individual's right to life, "the special formation of a militant attitude on the need for the closest cooperation of the political forces of everybody interested in disarmament" (see Chitoran and Năstase 1980, 323-328).

One last argument that the present paper proposes to analyze is the one regarding the functions and purpose of the punishment, the pylon of criminal law, to which the person requesting

conditional liberation. The jurisprudence retains the amount of punishment as generally required to be executed in full in order to perform all the functions of punishment (see Decision no 406/08.06.2011 delivered by the Prahova Law Court). And we add that, especially in the case of offenders committing crimes, they are forced by violence and means that attract the abhorrence of those around them that they do not benefit from the provisions of this institution.

Regarding the necessity of the institution of legal liability, this is a consequence of the violation of the norms of law, but also an important way to achieve the rule of law; it is regulated as a fundamental institution, inherent in any state, sure that alongside the institution of crime and that of punishment. The existence of criminal liability implies also enforcement of the conviction, which, in the case of certain offenders and certain offenses, will last until the punishment imposed by the court (Bulai 1997, 315-316).

It remains to be noticed, in the years to come, how the criminal legislator will “react” to the cases in practice and to what extent will he manage to solve this desideratum.

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Impact of Psycho-Social Predictors on the Quality of Life of the Elderly in Pakistan

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ABSTRACT: This study was aimed to analyze the Quality of Life of the elderly with regard to socio-economic conditions and psycho-social perspectives in Peshawar, Pakistan. In the present review, the focus has been made to examine the impacts of various predictors on the quality of life. A multiple indicator approach, which was based on PLS-SEM, was used to assess the impact of different psycho-socio-economic and demographic indicators on the psychological well-being of the elderly. Hypotheses were planned and evaluated for each dimension in the analysis. A self-administered questionnaire was used for data collection. Two standard inventories: Scale with Life Satisfaction and Rosenberg Self-esteem Scale were adopted and evaluated as a composite outcome measure “Quality of Life”, employing Partial Least Square Structural Equation Modeling technique. The coefficient in the model showed that Social Circle, Health and General Activity have a significant contribution to the Quality of Life. The findings of the study indicated that the relationship between the explanatory variables and outcome variable was strong in the model. All constructs collectively were accounted for 68% of the amount of variance in the construct of Quality of Life. The result exhibited that the Friends and Family construct was the strongest determinant for Quality of Life and Psychological wellbeing in the retired elderly.

KEYWORDS: Quality of Life, Life Satisfaction, Self-Esteem, Leisure Activity, Social Circle, Psychological Wellbeing

Introduction

Annotations, explanations and observations regarding aging in all probability date back to the earliest times, and the documented evidence of thoughts about age can be traced back from the ancient religious literature (Roy & Russell 2006). The depiction of aging, since the early 1970s, in literature transformed towards optimism what Constance has called “a new paradigm of hope” (Wyatt-Brown 2002). Recent times have witnessed a positive shift in life expectancy on account of modern medicine, control of epidemics, better life styles, hygiene care, and healthy nutrition (Kinsella & Velkoff 2001; Diane, Sally Wendekos & Feldman 2004) which have increased the life span while ameliorating the later years. Quality of life and Aging is an emerging area in the realm of social and behavioral sciences (Carstensen, 1988; Mitchell 1993; Alkema & Alley 2006; Little et al. 2012). Efforts, across the world, are being made to acquire extended life span which is accompanied by a sustained sense of well-being, a longer period of good health, extended periods of productivity and intimate relationships.

The pace of the process of aging varies due to various factors including environment, life style and genes. The aging phenomenon is rapidly rising due to the prolonged lifespan (Blagosklonny 2010; Buchanan, Husfeldt, Berg & Houlihan 2008). Though extended life span does not mean a quality of life or satisfaction in life but according to Rowe and Kahn (1997) “*it is multidimensional, encompassing the avoidance of disease and disability, the maintenance of high physical and cognitive function, and sustained engagement in social and productive activities*” the current trend of demography has altered various socio-economic parameters as Werner, Scheffrin & Bradley (2010) added that the world is encountered with a considerable accumulation of the aging population which can be referred as “the graying of the planet”. This emerging issue is impacting healthcare and social policies, social security and even the socio-economic condition of a family (Sathar & Casterline, 1998). According to a report of the United Nation, the number amplified from 8 percent in 1950 to 11 percent in 2007 and projected to touch 22 percent by 2050. The elderly

population is increasing at a rate of 2.6, which is higher than the overall rate of 1.1% per year. It is projected to touch two billion by 2050.

In Pakistani society, the increasing period of lifespan, shrinking mortality and fertility rate and rising trend of migration from rural to cities posing problems for the older people in term of overcrowded cities, substandard housing and over the burdened healthcare system. In addition, low pension, minimum social security and change in value system changing the status and role of the elderly (Sathar & Casterline 1998). Having in view the current growing trend in population increase, it is estimated that the number of elderly people will be mounted to nearly 23.76 million by 2030. In Pakistan, which has traditional and value-oriented culture, the elderly are treated in respected and dignified manners. They are considered as a mark of piety, esteem and wisdom. However, these values are gradually changing (Salahuddin & Dr. Jalbani 2006), which inculcating a sense of deprivation and loneliness at societal and family level and further leading them towards dissatisfaction and uselessness. Moreover, limited pension coverage and lack of old-age benefits are pushing the elderly into poverty (Alam, Ibrar & Khan 2016). Around 12 million older adults in Pakistan are deprived of Social Security and Universal Pension System (Index 2013). The economic self-sufficiency is availed to limited people after retirement. Regular pension is offered only to those who got retired from the government sector's jobs. The elderly are suspected to be more prone to mortality, morbidity, and disability with the aggregating numbers in coming years (Afzal, 1994; Bhamani, Karim & Khan 2013). Such a situation of prolonged life expectancy, demographic shift, minuscule pension, lack of social safety nets, changing structure of the family system, economic dependency, migration of youth to cities, modern social trends and expulsion from job at a threshold age leading the elderly towards isolation and dejection and upsets the psycho-emotional situation and subsequently effecting their internal satisfaction and quality of life (Jalal & Younis 2014; Topinková 2008; Jillani 2005).

Quality of life and successful aging are is a broader impression which denotes life as a whole (Bowling, 2009). These all terms are not clearly distinguished from each other rather used interchangeably (Mannel & Dupuis 1996). Farquhar (1995) enumerated various domains for satisfied life such as close and informal interaction, family gathering, health, social activities and financial position which are more likely related while examining the quality of life. An investigation conducted by McCamish et al. (1999) added that personal and close relationships (contact with children, siblings, relatives and friends) and health (available help and subjective assessment of health) was found to be strongly significant to the satisfaction in life. Higher level of Life satisfaction, in another comparative study, was found in those living in their local communities in comparison to the elderly living in nursing homes (Gueldner et al. 2001). The five areas of functioning including economic, social, mental, ADL and physical had significant association to successful aging and life satisfaction (Krach et al. 1996). The subjective health is also fundamental domain of life quality. According to various studies, high level of life satisfaction has been found in those older people who reported excellent health (Farquhar 1995; McCamish-Svensson et al. 1999; Hilleras et al. 2001). The investigation carried out by Bondevik & Skogstad (1996) indicated negative impact of loneliness on the elderly. Aloneness is significantly related with low quality of life (Holmen, Ericsson & Winblad 1999). Hilleras, Herlitz, Jorm, and Winblad (2001) postulate that family and friends' interaction and support is a kind of cushion which inhibits the damaging impact on the life of the elderly. They maintained that close friendships and strong family relations tend to enhance self-esteem, strong identity and satisfaction in life. Carstensen, Gross and Fung (1997) postulated that companionship, friends and relatives in later life, keep the older people satisfied and happy.

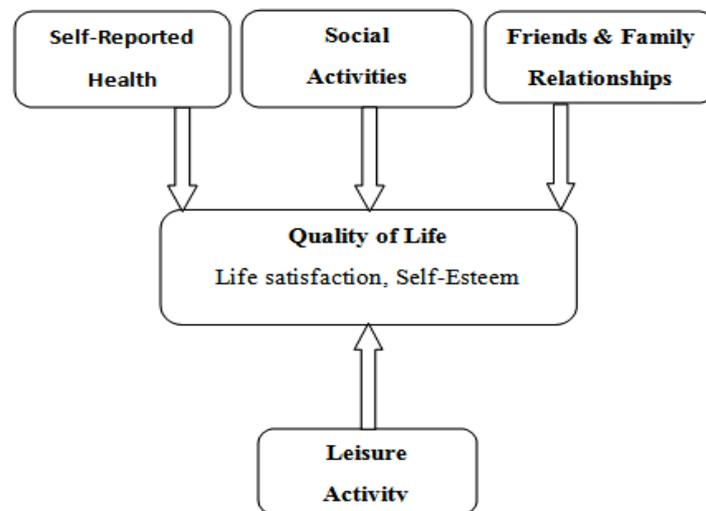
The present work was planned in order to empirically explore the quality of life relationship with various Psycho-social variables. Aging from multiple perspectives has been studied and studying throughout the world but in Pakistan, the questioned phenomenon is a bit ignored area of research. The seriousness of the problem is not being realized and concealed under the cultural and normative cover of social system so far. But, now, public perceptions and social realities about the emerging elderly issues are changing due to urbanization, modernization, influx of information, the

nuclearization of the family system, migration and mandatory retirement. The current study aims at enhancing the insight and assessing the quality of life of the elderly in the context of multiple psychological and social perspectives. The study also contributes to the existing knowledge by exhibiting the empirical relationship among various determinants and outcome variables.

Methodology

The current investigation was based on a descriptive study design. The sample group information was collected through the Questionnaire. The conceptual design was constituted to examine the relationship between predictors and dependent variables. In most of the previous studies the predictors of satisfaction and quality of life have been somewhat economic in nature or follow a single-criterion technique while multi-dimensional approach usually ignored. In present work, the conceptual framework was hypothesized that quality of life is a product of multiple latent constructs such as friends and family relation, social and leisure activities self-rated health, self-esteem and life satisfaction. The current study examined the association of the composite latent measure “Quality of Life” that was consisted of two standardized inventories (Satisfaction with Life Scale constituted by Diener in 1985(Diener et al. 1985) and Rosenberg Self-Esteem scale, designed by Rosenberg in 1965 (Rosenberg 1965) and four (standardized scales) latent predictors comprised of Friends & Family Relationships, Leisure Activity, Social Activity and Self-Rated Health variables. The statistical procedure of the Case Summary and Box-Plot, according to Krzywinski & Altman (2014) is a powerful graphing and validation tool, were used to specify and remove the outliers and missing values.

Figure 1. The Conceptual framework of the study is presented in the following model



Source: Author's self-developed conceptual Model

To make sure the reliability of the survey instruments a pretest of the questionnaire was performed. The possible flaws in the questionnaire were incorporated. The validity was made sure by adopting standardized measures for collecting accurate and appropriate information of the respondents. The content validity was ensured by the consistency of the responses in pretesting. The survey instruments were constructed in both Urdu and English languages to make it more comprehensible to the elderly.

Sample and Data collection

For the collection of data, the sample population was taken from Peshawar. The data of 312 older people as a sample group were collected through convenience sampling technique. Only those respondents were selected for the study who were at the age of 60 years or above. The sample group

was consisted of male-only respondents due to a number of constraints such as gender segregation, socio-economic disparities, and difficulties in retention and recruitment of elderly women in Pakhtun society. Only those respondents were included that were willing to partake and had no observable mental and physical disability.

Analysis and Result

All the measurement constructs were adopted from validated scales. The model contains four exogenous latent constructs with reflective measurement model and an endogenous higher order construct. higher-order construct is directly measured by indicators of all its underlying lower-order constructs (Becker, Wetzels & Klein 2012; Wetzels, Odekerken-Schröder & Van 2009). In this work, Quality of Life is conducted as second order construct operationalised as reflectively by two first order reflective construct i.e. L_S and S_E. the repeated indicator approach is used by assigning all the indicators of low order construct to higher order construct. The independent variables are reflectively measured by its relative indicators as first order constructs (S_A, L_A, F&F, S_R_H). The present Model in the research is analyzed by PLS-SEM. A significant relationship was found between latent variable and their respective items in Measurement model. To evaluate the Measurement model indicator reliability, convergent validity and discriminant validity was tested. In order to achieve unidimensionality of a construct, factor loadings of all the items must be greater than 0.5 (Hair et al., 2014). Construct reliability was assessed by the value of C.R and Cronbach alpha ranging from 0.7 to 0.9. AVE was calculated to test convergent validity, threshold value of AVE > 0.5. (Hair et al, 2017; Bagozzi and Yi (1988). To examine the discriminant validity, Fornell and Lecker scale was utilized (Fornell & Lecker 1981). Structure model is assessed by evaluating significant path coefficient and co-efficient of determination which shows the relationship between construct and quality of life model (Hair et al. 2014).

In Reflective Measurement Model, convergent validity, Cronbach alpha and factor loading was assessed. All the latent variables met the required criteria. Table 1 shows that C.R and AVE values of construct exceed the threshold criterion value “0.7 and 0.5” (Bagozzi and Yi, 1988). Item loading of all the constructs were higher than 0.5 whereas items with small factor loading and non-significant were deleted to maintain the indicator reliability. Thus our model depicts strong and reliable convergent validity. The values of Cronbach alpha in table 1 are above the threshold value i.e. > 0.7 concluded the good item reliability. To assess the second order construct with repeated indicator approach, first order construct was used as indicator. In Table_1 **Life Satisfaction “L_S”** (0.934) and **Self-Esteem “S_E”** (0.955) have strong and significant path coefficient to second order construct **Quality of Life “QoL”** explains more than 50% variance in Life satisfaction and Self-Esteem, values of AVE = 0.542 and CR = 0.938 are above the recommended value which indicate the validity of construct.

Table 1. Indicator Reliability of the constructs

Construct & items	Item Loadin	Cronbach's Alpha	CR	AVE
Leisure Activity		0.853	0.892	0.584
L_A.10	0.851			
L_A.11	0.837			
L_A.12	0.807			
L_A.13	0.592			
L_A.8	0.625			
L_A.9	0.827			
Life Satisfaction		0.903	0.929	0.725

L_S1	0.903			
L_S.2	0.903			
L_S.3	0.875			
L_S.4	0.841			
L_S.5	0.721			
Social Activity		0.694	0.813	0.524
S_A.1	0.808			
S_A.2	0.718			
S_A.3	0.618			
S_A.4	0.737			
Self-Esteem		0.874	0.901	0.534
S_E.1	0.760			
S_E.10	0.802			
S_E.2	0.622			
S_E.3	0.748			
S_E.4	0.715			
S_E.6	0.694			
S_E.7	0.820			
S_E.9	0.661			
Self Rated Health		0.780	0.856	0.601
S_R_H.1	0.831			
S_R_H.2	0.646			
S_R_H.3	0.764			
S_R_H.4	0.844			
Friend & Family		0.780	0.849	0.532
S_R.2	0.778			
S_R.4	0.673			
S_R.5	0.696			
S_R.6	0.817			
S_R.7	0.671			
Quality of Life "QoL"		0.928	0.938	0.542
Self-Esteem "S_E"	0.955			
Life Satisfaction "L_S"	0.934			

Source: Author's self-designed

Hence the convergent validity and reliability of Reflective Measurement Model is achieved. Fornell and Larcker Criterion method was used to assess the discriminant validity. In Table 2, diagonal values are AVE's square root which is greater of its corresponding correlation values.

Table 2. Discriminant validity of Constructs

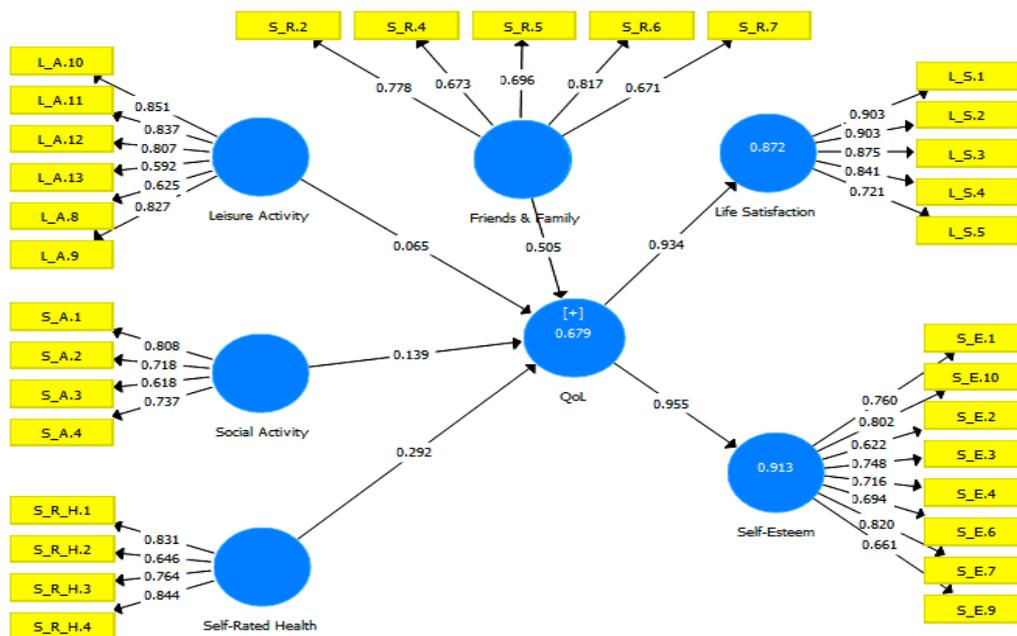
Constructs	Friends & Family	Leisure Activity	QoL	Self-Rated Health	Social Activity	R ²
Friends & Family	0.729					
Leisure Activity	0.609	0.764				
Quality of Life	0.762	0.528	0.736			0.68
Self-Rated Health	0.459	0.298	0.604	0.775		
Social Activity	0.595	0.487	0.599	0.437	0.724	

Source: Author's self-designed

Structural model

In order to assess the Structural model, collinearity issue has to be examined first. (Hair et al, 2014). Inner VIF values of all predictors construct are less than 5, suggesting that there is no collinearity among the variables. Secondly, coefficient of determination R² has to be assessed. In our model 68% of variance in Quality of Life as shown in figure 2 can be explained by its four predictor variables i.e. Friend & Family, Leisure Activity, Social Activity and Self-Rated Health. Thus R² value i.e. **0.68** (Figure 2) shows that our Model has good predictive power.

Figure 2. Model of the Quality of Life



Source: Author's self-designed

The bootstrapping technique using 2000 samples was conducted for significance of path coefficient. (Ramayah et al., 2014; Chin, 2010). Table 3 shows that three out of four structural paths are significant. Friend & Family has positive strong effect on QoL ($\beta= 0.505, t=10.93$). Social Activity ($\beta=0.139, t=2.98$) and Self Rated Health ($\beta=0.29, t=8.259$) are positively associated with QoL. Leisure Activity shows non-significant and weak effect on the QoL ($\beta=0.065, t=1.59$).

Table 3. Path coefficient, P value and Predictive Relevance

Association of Constructs	β	Mean	STDEV	t-value	P Values	Q^2
Friends & Family -> QoL	0.505	0.503	0.046	10.931	0.000	
Leisure Activity -> QoL	0.065	0.066	0.041	1.588	0.113	0.34
Self-Rated Health -> QoL	0.292	0.295	0.035	8.259	0.000	
Social Activity -> QoL	0.139	0.139	0.047	2.980	0.003	

Source: Author's self-designed

In PLS-SEM, predictive relevance can be calculated through blindfolding test. Chin (1998) suggests that Q^2 value of greater than zero indicates good model predictive. In this study $Q^2 = 0.34$ indicating the endogenous variable Quality of Life “QoL” was well explained by its predictors variables.

Discussion

The depth and breadth of the quality of life construct was evaluated by examining the relationships of various determinants and measures through PLS-SEM (Partial Least Square-Structural Equation Modeling). The composite perceptive measure “Quality of Life” was examined in this study to explore the influence of different Psycho-social predictors (e.g., Friends & Family, Social Activity, Leisure Activity and Self-rated Health). According to Krach, DeVaney, DeTurk, & Zink (1996) these domains have significant association with mental well-being. In present study, it was hypothesized that the Quality of Life is a broader, heterogeneous and multi-perspective domain of subjective measures (consisted of disposition or personality factors such as self-esteem and self-worth, pessimism and optimism and neuroticism) and objective measure (comprised of situational or environmental determinants such as friends, family, activities, leisure, health). Leung and Lee (2005) opines that Quality of Life is the product of individuals' evaluation of vital aspect of life (e.g., Social circle, social support, leisure and social activities and available resources).

The finding and the structural model of current investigation not only supported the previous work carried out in context of aging and satisfaction but also affirms the importance of relationship with friends and relatives. The findings of Diener and Diener (2002) confirms the result of this study revealing that when biological needs are fulfilled, strong social ties are enough for quality of life and satisfaction. The prior work indicates the association of health with the social integration in term of fast curing from illness, early discharge from hospitals and increased conformity with the course of therapy (DiMatteo 2004). Hilleras et al. (2001) founds that social integration and social relations are more likely to protect from harmful and distressing effect emerges over a period in one's life. It is also revealing that the people who have good friend and family relations, purposeful and healthy involvements, positive outlooks and high self-esteem are relatively live more contented and satisfied life. Carstensen et al. (1997) maintains that having close friends and companions in aging increase happiness and satisfaction in life.

The findings of the study also support the investigation of the study of Borg, Hallberg and Blomqvist (2006) who found that support by friend and family members strongly related with the satisfaction in life. Social interaction with children, siblings and friends significantly associated with quality of life and mental health (McCamish-Svensson et al. 1999). The older people who have poor social interaction and support most probably have weak self worth and dignity, lose their independentness and feel themselves as a burden. A study conducted by Taqui et al. (2007) in Pakistan revealed that ratio of depression was high in those elderly who were unmarried, separated and widowed, while Diane et al (2004) added that good ties with family and friends found to be a buffer for psychological disorder in most of the people. Osborne (2012) found that friendships, community participation and social interaction are those strong indicators which pacify and sooth the older people in difficult times. The findings of the current study indicate that the elderly who had strong relationship with friend and family were found to be more satisfied and happy. The current work shows strong relations between social integration and quality of life.

The outcomes of the investigation, on one hand, call for social planners and policy makers to formulate workable policy proposal on the older adults' social integration and inclusion into the family and society and on the other hand, the elderly are recommended to keep intact with friends, maintain good family relationships, involve themselves into healthy and purposeful engagements and have positive and optimistic outlook for leading a satisfied, dignified and well-adjusted life.

The results of the present study, in context of limitation, are not generalizable altogether since all the respondents were selected from only one metropolitan city i.e. Peshawar. This makes result less generalizable to all the elderly who belong to the other cities of the country. Future studies may yield more encompassing and accurate results across the population.

Conclusion

Extended life span along with a sustained sense of well-being, a longer period of good health, a strong sense of productivity and close and intimate relationships pave ways for a better quality of life and successful aging. This study was planned to investigate multi-dimensional predictors in term of their influence on subjective measures of the quality of life and mental well-being of the elderly. This work found out that satisfaction and well-being is not solely the outcome of the available material resources and leisure activities but warm and close relationships with friends and relatives are also have crucial importance in the elderly life. Social network and friendly ties with closed members lead towards a respectable status and role which subsequently enhance the satisfaction level and self-worth of the older member.

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The Right Not to Punish

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ABSTRACT: No common reasons can be identified for the fundamentals of the right to punish, the right not to punish or the right to decriminalize, although, at first sight, the three rights seem to have similar origins. As the right to impose a punishment derives from the law, so a law must also reflect the right to defer a punishment, to waive its application, or to decriminalize a certain conduct. A brief analysis of the right not to punish can also reflect the reason, the conditions, and, possibly, its limits. These can often be arbitrarily interpreted in practice due to reasons that must be identified. An arbitrary exercise of the right to amnesty or to grace, or poor implementation in the Romanian-German law of restorative justice, may have adverse consequences in terms of the safety of social values. To prevent arbitrariness and to ensure social security, the functions of the public authorities play an essential role. At present, only the legislative function generates the law, and the judicial function ensures that the law is implemented or it may order a punishment to be enforced if the law is violated.

KEYWORDS: Criminology, Criminal Law, Law, right, punishment

Introduction

Since the ancient times (Beccaria 2007, 4) and so far (Rotaru 2006) the criminal doctrine has approached the place and the role of punishment and the fundamentals of the right to punish, starting most often from the virtues or from the functions on the punishment. Especially in the late period, the humanization of the repression and the non-custodial means seem to gain ground as part of the criminal policies. In summing up the main aspects that have contributed to the change of the paradigm in the mentioned sense, we will summarize the fundamentals of the right to punish (1), the circumstances that may sometimes confer the right not to punish (2) and the restorative justice in the context of crime prevention and control (3).

Fundamentals of the right to punish

Any contemporary society recognizes certain values that it naturally tends to protect through penal laws that criminalize any conduct that may prejudice the said values. The main intrinsic feature of the law is coercion, and the coercion force always belongs to the State. The offense is the sole basis for criminal liability, as the incriminated act is committed with unjustified guilt and is imputable on the author. The ground of the right to punish, of the right not to punish under certain circumstances and the responsibility are matters on which we will make certain general theoretical considerations.

The right to punish belonged to and belongs to the power. The power, seen as a force in favor of an idea born of social consciousness in order to lead the group in the search of the “common welfare”, but also able to impose the attitude that it commands, is immanent and specific to any human community (Burdeau 1966, 13-14). Such power may become a political power when the community becomes a society, namely when the individuals that make up the said community have the awareness of belonging to that community. Once this evolutionary stage has been reached, the social power manifests itself as political power.

Looking from an evolutionary perspective, we could classify the forms of power in pre-state powers and state powers. In the first case, either the power belongs to the group - anonymous and diffused, or it belongs to a chief or to a minority group - individualized, often divine origins being attributed to it in order to compensate for the impossibility of a rational understanding of power. In the second case, given the fact that the authority of the power could not legitimize itself

any more based on customs or religious beliefs and as a result of the need to ensure the establishment and the streamlining of the said authority, the appearance of an institutional framework was necessary, namely the state was necessary to be created. The entirety of the institutions and rules set up to achieve the effectiveness of the power designate the state, and the power thus institutionalized is a state power, namely a public power, the state being also called in the literature "the juridical formula of the existence of a society, people or nation" (Muraru 1997, 10), or disincentive legal order as a command power and as a distinct will of the individuals (Kelsen 1928).

The individual's security in relation to power and especially their protection against abuses of power are guaranteed by the exercise of power according to the ideas that can be deduced from the works related to the principle of separation of powers in the state (Eisenmann 1984-1985, 3). Whether the paternity of this principle is attributed to Montesquieu in Europe or to John Lock in England, it should be noted that empirical sources of this idea can be found since the ancient times at Herodotus, Plato, or especially Aristotle. The theory of separation of powers reflects in fact three essential functions: the legislative function (law-making), the executive function (law enforcement) and the judicial function (solving litigation that arise in law observance and law enforcement process). These are not powers as such, but they are functions of the same public power, which in their turn have their strength. Other interpretation would be contrary to the status of the power, which is unique, indivisible and belongs to the people.

It can be noticed from the foregoing that the task to solve the disputes that may arise between the society and the individual or a group of individuals as a result of the violation of the law is incumbent on the judicial function, which takes place through the law courts. The fundament of the right to punish lies, after the moment of the *desacralization* of power, exclusively with the institutions habilitated by the public power to ensure the legal order, as part of the social order, for the purpose of ensuring the citizens' safety and the progress generating social balance.

By virtue of these desiderata, the courts apply sanctions when required in the process of justice. Recourse to punishment on account of its virtues - primarily the amount and certainty - was nuanced since the advent of positivist ideas and it needs some reassessment.

The circumstances that may give the right not to punish

On the legal-criminal plan, the right to punish is related to the preventive function of the sanction, which aspect should be considered whenever the courts decide not to apply a punishment provided by the criminal law. Coming out of the sphere of the courts' activity, we will refer to the entities that under certain circumstances can establish the legal framework for not applying a punishment. In this context, the amnesty and the pardoning seems to us the most relevant entities because these establish themselves as a reason of removal or modification of the criminal responsibility and respectively as a reason for the removal of the service of the punishment, although the ground of the criminal liability (the offence) exists and no unjustified or non-imputability causes have been signaled. Through these legal institutions the very principle of inevitability of punishment and full implementation of the sentence might be defeated, in the case when the defendant's guilt has been established and the case of absence of the causes that make the act not to be a crime.

Amnesty is a word with its origin in ancient Greece (amnesia), which means forgetfulness. The legislator used at that time this leniency act, marking the importance of lapse of time from the moment of committing the facts that disappeared from the common memory of society. In relation to the constitutional provisions and the norms of today's criminal law, amnesty is a political and

legal act, namely a leniency act of the Parliament that has the effect of removing the criminal liability, or the execution of the punishment, if the said act was issued after conviction, for a pardoned crime.

It should be emphasized that the amnesty is not a question of removing the criminal nature of the act, so that the person who has been granted amnesty will be further on considered an offender, a situation which entails a series of legal consequences. Also, amnesty can not be considered a decriminalization because the existence of the act, as it is legally classified, is maintained, with all the consequences resulting from this.

It seems to us that is of great utility the clarifications regarding the normative acts by which an amnesty act can be objectified, as well as the explanations regarding the limits of the leniency act itself.

As regards the first aspect, given that the amnesty is an act of leniency of the Parliament, it can be found only in an organic law and not in an emergency ordinance. As regards the second aspect, it should be borne in mind that the legal rules aim at ordering and disciplining the social relations, guaranteeing legal certainty, removing potential conflicts, making peace and stability to be instituted (Popa 1996, 223).

Legal security, in turn, designates the safety of individuals and society as conferred by legal normality by the observance of its prescriptions (Dongoroz 1987, 334).

Pardoning is a cause of the removal of the execution of the punishment, which must be seen as a leniency act of the state power, respectively of Parliament when it is collective, or of the President when this act is individual. Pardoning consists of the forgiveness of a convict or a class of convicts to serve in whole or in part the punishment, or of the switching of this punishment to an easier punishment. By this institution a renunciation of the exercise of the right to impose the execution of the sentence is achieved, which may not seek the denial of the activity of justice, but aims to consolidate it.

Like amnesty, pardoning is both a constitutional and a penal institution. The fundamental law mentions the bodies which are assigned the right to pardon and the provisions of the Penal Code provide the legal-penal effects of this institution.

It should be noted that, from the point of view of its legal nature, the individual pardoning is a personal cause of removal or modification of the sentence imposed on a person, but also a mean of individualization of criminal legal constraint (Dongoroz 1987, 335). We emphasize that this institution has effects *in person* and does not extend to potential participants in the crime.

Restorative justice in the context of crime prevention and control. Prevention of crime and even of recidivism, but also the crime control, as we will show, have always been based on punishment. Aiming to streamline the justice, they started from the concepts of retributive justice and distributive justice and they reached the newer concept of restorative justice, which seems to respond more adequately to prevent crime, especially prevention of recidivism.

Crime prevention is a concept that has its roots in ancient philosophy (Killias 1991, 443), Plato and Aristotle being among those who outlined the general aspects of prevention, based on the virtues of punishment. The principles have been strengthened since the second half of the 18th century, when C. Beccaria claimed that prevention can also be done indirectly through the way in which laws are made and how they are observed, mainly by the magistrates. Laws must defend classes of people rather than individuals, be clear and good, be unambiguous, and they must not

defend the interests and privileges of the few. Under these circumstances, people would be in a position to be afraid of laws and not of other people (Beccaria 2001).

In accordance with the positivist opinions, punishment is a mean of social defense of a curative nature, aiming at healing the offender. In this regard, E. Ferri says that crime is primarily a natural and social phenomenon which must be prevented and then a legal entity. Through the legal instrument, repression is reached if necessary (*Ibidem*).

The concept of crime prevention has not yet been fully elucidated by specialists and is still not universally accepted. In Criminology, the analysis of prevention is addressed from two perspectives. In the broad sense, it is based on the idea that everything is prevention, including within the concept both criminal penalties and the compensation, assistance and protection of victims, etc. In a narrow sense, the notion is analyzed, making a distinction between prevention and repression.

After the emergence of the concept of criminal personality (Pinatel 1963), criminology provides a broader space for researches regarding the recidivist offender, the favorising criminogenic factors, as well as the preventive measures, including recidivism. From this period, the concept of prevention begins to take on an approach that tends to depart from criminal law, being less related to punishment and more to the means of resocialization of offenders who had already begun to apply in the United States and the Nordic countries.

The criminology of the social reaction went further and the main directions of thinking focused on the partial or even total separation of criminological prevention from the criminal system, as well as the concentration of prevention not on the offense and the delinquency, but on the “*criminal issue*” (Stănoiu 1994, 205).

The separation of the definition of prevention from the traditional solutions was also marked by R. Gassin's opinion on this issue, in the view of whom by prevention is meant “*any criminal policy activity having the exclusive or partial finality to limit the possibilities for the emergence of an ensemble of criminal acts, by rendering them either impossible or more difficult to achieve, with the exclusion of the threat of punishment or its application*” (Gassin 1998, 613).

The quoted author emphasizes the exclusion from the prevention of the idea of punishment (intimidation) or the exclusion of individual prevention of recidivism, if the possibility is provided for measures to be passed prior to the perpetration of the offence (*ante delictum*). Moreover, the author supports the collective nature of prevention in criminology, speaking in the definition about “*criminal actions assembly*” rather than about “*individual criminal actions*”.

We appreciate that preventing crime is the prevention of committing those actions or inactions, which society considers at some point harmful to its values, which is why these behaviors have been sanctioned by criminal law.

Crime prevention can thus be perceived as a multilateral system of measures aiming at identifying the groups of persons with a higher risk of passing on to act and identifying situations in certain geographic areas or in a particular environment that motivate the criminogenic environment, as well as identifying people with predisposing behavior. Removing or reducing or neutralizing the causes of crime, as well as the factors that at some point are favoring it, is of decisive importance in prevention.

These ideas are the basis for the new trends in contemporary criminology, as the said trends are found in the Recommendation (83) 7 of the Council of Europe where prevention is defined as “*the instrument used by the state for better control of crime by eliminating or limiting the*

criminogenic factors and by adequate management of physical and social factors that provide opportunities for committing the offense” (Recommendation (83) 7 of the Council of Europe).

The social control must be delimited both of the concept of prevention and the concept of social reaction. Analyzing social control, E. A. Ross believes that social order can never be instinctual and cannot have a spontaneous character. This is a result of direct psychological pressures, of suggestions and actions of various social forces, as well as of the directed actions of institutions playing a role in the regulation of human behaviors. In the opinion of the mentioned author, the law is a specialized and perfect social control mechanism; although not the only mechanism of control within a society, the law is the foundation or cornerstone of social order (Basiliade 2006, 545).

In a narrow sense, social control means all actions aimed at limiting the probability of committing a crime (Cusson 1993). Some criminologists confer on this concept a broader meaning, including the sanctions as such (of the police, the public ministry, the courts), the social sanctions (reactions and pressures of the individual's conformist entourage that aim to make him to respect values such as probity or respect for others) and the self-protection actions of citizens or organizations as victims or potential victims (Friday 1993). It follows from the foregoing that social control is not part of the preventive actions, since, unlike the prevention, which has a proactive nature, intervening to overcome the committing of the the crime, the social control has a reactive character, it intervening after the fact has been committed (*Colloque Eeuropean du Groupe europeen de recherche sur les normativites*, 1993). The lower or higher deficiencies of the classical criminal system have generated a particular interest in restorative justice. The analysis carried out by Jeff Latimer and his collaborators on the model of restorative justice has highlighted the fact that some concepts of restorative justice originated in traditional practices of settling conflicts specific to indigenous cultures, while others take over religious precepts (forgiveness and reparation) shared by some religious and confessional groups that have developed some of the first restorative justice programs (Kleinknecht 2000, 6).

The study conducted in 2005 (*Programs of Restorative Justice in the Contemporary World*, 2005) at the Institute of Criminology in Romania is in our opinion a solid argument for the promotion of practices of restorative justice in Romania, especially since the international organizations recommend in their turn the model of restorative justice to be used when this is possible. In this regard, it may be recalled at European level Recommendation R (99) 19 of the Council of Europe on mediation in criminal matters and basic principles on the use of restorative justice programs in criminal matters adopted by the United Nations in 2002.

The substance of restorative justice is based, according to the quoted study, on the offender's responsibility raising and on his effective participation, sometimes alongside with the victim, in the process of awareness of the effects of the offense.

We limit ourselves to adding that responsibility is a concept on which we are to carefully reflect. Educational deficiencies bring some people in the position to be unable to choose an alternative to engaging in committing a crime. Education, as a result of the level of school and professional education, but also as a level of education received and settled on a family and social plane, is the factor of forming the responsibility, not necessarily understood as assuming a specific obligation or adopting a conduct conforming to the social norms of the moment, but in the sense of a lucid, realistic capacity of reference to the complex of circumstances that are succeeding themselves in the personal life and in which the professional alternatives are decisively included (Bălan 2008, 100-101).

Raising the responsibility of the author through restorative justice programs is all the more necessary where education is deficient. We sustain on this line of thinking the raising of the efficiency of the justice system, not by applying a punishment, but by choosing together with the members of society the way of alternative dispute resolution where possible. In this way, the right not to apply punishment has a profound social fundament, but with more beneficial effects for the society, who chose alone the most appropriate defense variant, detached of rationale of the right to punish.

Conclusions

The right to punish and the right to forgive always belongs to the society that can assess how and to what extent the said rights may be exercised by its representatives who are contributing to justice and its proper administration.

The right not to punish, in the form of amnesty and pardon, is of a constitutional and criminal nature. The fundamental law refers to the state bodies to which this right is assigned, and the provisions of the Criminal Code provide for the legal-criminal effects of these legal institutions. In relation to the constitutional provisions and the rules of today's criminal law, amnesty is a political and legal act, a leniency act of the Parliament, which has the effect of removing criminal liability or the execution of the punishment. It is not a cause of removal of the criminal nature of the offense, so that the person who benefits from it will be further on considered an offender, a situation that results in a series of legal consequences. Also the two legal institutions may not be considered a crime decriminalization because the existence of the fact, as it is classified by law, remains, with all the consequences resulting from it.

Amnesty or pardon must not be confused with the change of the amount of the punishment or of the constitutive elements of certain offenses, on criteria and by means of legal instruments of a questionable constitutionality. It is possible that these changes, more or less constitutional in their turn, be likely to generate some ricochet effects. Thus, some cases can be closed, but as a result of application of the more favorable criminal law or by virtue of observance of the principle of legality of the investigation and enforcement of penalty, which is not equivalent to an amnesty or pardon, although the effects may be similar.

Restorative justice, as an alternative way to resolve the conflict and enforce the penalty, where it can use it, allows active participation of society, the author and the victim in the raising of the responsibility and the awareness of the author of the effects of the offense, in his integration into society, in helping the victim to repair the damages of any kind, the victim having an important role and not a marginal one as in the common law procedure.

The right not to punish must not be exercised in ways that might jeopardize the work of the judicial bodies. A discretionary or deficient exercise of this right may open the door to abuse.

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A Culture of Violence? Women in Twentieth Century Bengal

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ABSTRACT: Violence is one of the primeval instincts of human kind. It is not restricted by spatio-temporal frontiers and majority of human beings, irrespective of their gender, age, nationality, orientation, etc. are subjected to some form of violence during their lives. However, as the societal conditions have always enabled the subjugation of the “weak” by the “powerful”, violence against women has been identified globally as one of the most systematic and widespread human rights violations. Using three short stories authored by Jagadish Gupta, Tarashankar Bandyopadhyay, and Mahasweta Devi in twentieth century Bengal as case studies, this paper seeks to examine the diverse trajectories of violence perpetrated against women in the aforesaid period. Analysing particular modes of violence like dowry-based homicide, witch-hunting, and rape as political instrument of oppression, this study intends to qualify Michael Taussig’s thesis on “culture of terror” by situating it against the wider backdrop of the “culture of violence” and the discourses of resistance that simultaneously emerged in twentieth century Bengal.

KEYWORDS: women, patriarchy, superstition, caste, class, culture, violence, resistance, twentieth century, literature, Bengal

Introduction

This paper intends to approach the issue of violence against women by analysing its portrayal in twentieth century vernacular literature of Bengal. In the process, it will particularly focus on three short-stories authored by Jagadish Gupta, Tarashankar Bandyopadhyay, and Mahasweta Devi to illustrate how the trajectories of violence committed against women permeated the social, political, and economic realities of twentieth century Bengal. While further consolidating a space for re-enforcing the evils of patriarchy, illiteracy, superstition, and class divisions, violence also generated counter-discourses of resistance.

Firstly, by taking up Jagadish Gupta’s “Payomukham” as the case study, this essay will examine the economic grounds for violence inflicted on women in twentieth century Bengal. It seeks to reflect on how the roots of patriarchal dominance enabled the creation of both an individual and familial space for perpetrating violence in the First World War ravaged society. Here, especially middle class women whose families had the ability to pay a considerable sum of dowry and yet were not socially privileged were subjected to profound physical and mental torture, leading to numerous deaths. Secondly, as the narrative of Tarashankar Bandyopadhyay’s “Daini” reveals, women from the lower sections of the society were particularly exposed to the brunt of social superstition and violence. Local superstitions and myths constructed a space for psychological apprehension, resulting in the identification of poor, orphan women with physical deformities as witches or evil spirits. In turn, they were either socially ostracised or beaten and burnt to death. Collective social violence against women in Bengal were thus particularly aimed at lower sections of the society who did not have the social, economic, or political mileage to generate a counter-narrative to these discourses of superstition and violence. Thirdly, this paper intends to address the question of political violence by appraising Mahasweta Devi’s “Draupadi”. This narrative reveals how the backdrop of political movements like that of the Naxalite Movement of Bengal was employed to engender a space for physical and mental oppression of women belonging to the lower classes of the society. Moreover, this paper will also examine how rape emerged as a weapon of intimidation and torture at both individual and collective level. However, it is interesting to note here that while addressing the rationale behind violence, these narratives also reveal trajectories of resistance, thus breaking the silence imposed by dominant discourses.

Conclusively, by using the primary sources, this essay seeks to qualify Michael Taussig’s thesis on “culture of terror” to elucidate how the spaces engendered by economic, social, and political realities of twentieth century Bengal were themselves evidence of the process whereby a culture of violence against

women was created and sustained, given the dearth of counter-narratives. However, as voices of resistance emerged, the gaps between binaries like “victim-victimiser”, “dominant-marginalised” were considerably bridged, thereby subverting this culture of violence.

Situating “Women” in Nineteenth and Twentieth Century India: A Historical Overview

The advent of British rule in the Indian subcontinent brought significant changes not only in the political and economic realm but also in the socio-cultural sphere. Throughout the nineteenth century, numerous reforms were initiated by the British government, often in close collaboration with the educated natives. Though the criminalisation of Sati, propagation of widow-remarriage, restrictions on child marriage, and emphasis on women’s education had a favourable impact on the status and condition of women in Indian society, these reformist actions had some inherent flaws too. The predominantly male native reformers hailed mostly from the upper Hindu castes and their elite belonging often created a rift between their ideologies and the general acceptance of their reforms on the part of the masses. As such, the voices of lower castes and other minority religions were largely absent from the wider discourses on social reform in nineteenth century India (De 1995, 16). Moreover, while these efforts encouraged more women to step out from the realm of the private sphere to that of the public, the disparity in gender equations prevailed. The new bourgeoisie which was the recipient of Western education attempted to emulate the colonialists’ socio-cultural practices, but their reforms in the field of gender practices often reiterated female subjugation through a new form of patriarchy. Earlier, women were only subjugated by the male members within the domain of the household; now, they were placed at the lowest position in the socio-political hierarchy where both the colonial masters and the native men exerted their hegemony over them. The new rights granted to women in the public sphere, therefore, further masked and reinforced the private-public dichotomy as they devalued the significance of women’s subordination at home (Sarkar and Sarkar 2008, 1-6). However, it is necessary to note here that while women of upper and middle classes were the most repressed by patriarchal authority and needed to learn modalities of re-orientation, non-elite women had always constituted part of the menial and agricultural working classes in India, and therefore had always possessed a greater degree of agency, if not of formal education (Sen 2004, 190-91).

The last few decades of the nineteenth century underwent a political shift from moderate nationalist sentiments to militant nationalism and revivalist Hinduism as resistance against reformist activities on the part of the colonial state radically increased. In order to counter the cultural impact of colonialism, there was a deliberate acclamation of the “great” women of the past. While some reformers simply held wars and invasions responsible for the decline of the status of women in contemporary times, others traced the decline back to the Vedic Age (Heimsath 1964, 114-15). Majority of the reformers, however, blamed the Muslim rule. Disregarding critical facts that rulers like Akbar attempted to abolish atrocities like Sati and that Islamic law accorded women a higher status than Hindu law, they claimed that restrictions on female liberty were responses to the Muslim threat to women’s safety in the medieval period. These debates and discourses over socio-cultural issues thus identified women as either victim or heroine, curtailing the element of identity and agency. As Lata Mani has pointed out, “Tradition was thus not the ground on which the status of women was being contested. Rather the reverse was true: women in fact became the site on which tradition was debated and reformulated” (Mani 1990, 117-18).

However, with the advent of popular politics and mass movements at the dawn of the twentieth century, the impact of cultural nationalism and militant nationalistic tendencies weakened. Leaders like Gandhi, Nehru, Subhas Bose, and Sarojini Naidu paved the way for women to play active roles in the fight for independence and the focus of gender-based reforms became more comprehensive as it widened to include women from other social strata and religions. Endeavours of the Faraizi reformers and the expansion of female education in Urdu led to the emergence of several female Muslim reformers in North and East India in the twentieth century who furthered the issue of female education and protested against the “absolute female seclusion” practiced in Islamic society. Several other reforms in the field of inheritance and marital laws were initiated as communalism engendered a space for “competitive mobilisation”, thereby rendering women a significant constituency (Sarkar and Sarkar

2008, 8). The demand for suffrage and the subsequent movements for political equality further consolidated the position of women in the public/civic sphere. However, opponents of the movement often argued that the Indian women's demand for suffrage was an artificial import from the West and a hazard to the primeval customs and traditions of India. Eventually, the movement had to align its ideals with that of the nationalist concerns. As Southard (1993, 397) remarks, "Suffragist ideals had to be justified in Indian terms and linked to the nationalist issues of political rights and colonial status which dominated public discourse in the twenties and thirties in India." In spite of the fact that the condition of women in Indian society improved throughout the nineteenth century and the first half of the twentieth century, as seen in the aforesaid discourses, the extent to which women could actually exert their rights of autonomy is debatable. The subject of the reforms often turned out to be the "women" themselves, instead of the socio-cultural conditions that hindered their progress (Pande 2018, 5).

While political independence brought freedom from colonial rule in 1947, it was also accompanied by a variety of problems in other aspects of life, often with violent consequences. The Partition led to communal violence and the death and displacement of millions of people across the Indian subcontinent. India's war with China and Pakistan in the 1960s and 70s, followed by the emergence of militant Naxalite movements and regional separatist insurgencies in different regions of India, further crumbled the Indian economy. According to Rekha Pande (2018, 7), "This period from the late sixties has been marked by economic crisis and stagnation, rising prices, increasing landlessness and generalised discontent both in rural and urban areas." Religious tensions, casteism, and socio-economic dislocation within the territory of India generated an atmosphere of violence which went on to affect women the most. And, it is against this historical background that this paper will appraise the discourses of violence against women in twentieth century Bengal (undivided Bengal before 1947 and the state of West Bengal in independent India).

Chronicles of Violence against Women: Viewing through the Lens of Twentieth Century Vernacular Literature of Bengal

The 1993 United Nations Declaration on the Elimination of Violence against Women, defined the term "violence against women" as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (United Nations 2000, 1-7). Globally, violence against women is identified as "one of the most systematic and widespread human rights violations". As this form of violence is embedded in gendered socio-cultural structures rather than personal or random acts, it "cuts across age, socioeconomic, educational and geographic boundaries, affects all societies, and is a major obstacle to ending gender inequality and discrimination globally" (Aleem 2013, 52).

Social ills like casteism, superstition, and illiteracy and forms of religious violence and armed conflict elevate the likelihood of violence committed against women in India. As such, it is necessary to examine the interaction of factors like class, gender, caste, ethnicity, religion, and other particularities to comprehend the conditions that instigate violence against women in regions like Bengal. One of the most prominent sites where violence against women is perpetrated is the family, particularly in the form of dowry related torture and homicide. Though Dowry Prohibition Act, 1961 prohibits the payment of any form of dowry on the part of the family of the bride to that of the groom, it is still a widespread custom practiced in regions like Bengal. Dowry demands often tend to exceed the financial capacity of a bride's family. And, when the bride's family is unable to afford the dowry demanded, the new bride is subjected to physical and psychological torture by the family of the groom, which often leads to violent ends (Anderson 2007, 154-70). The rate of violence committed against socially ostracised groups and the marginalised castes and tribes in Bengal is also very high. These socially oppressed people are predominantly victims of violence inflicted by the upper castes of the society. The women of these communities are particularly targeted as they are both socio-politically and economically vulnerable. Witch-hunting is a common form of socially sanctioned violence in Bengal against nonconformist women, particularly in the tribal areas. These practices are often deemed necessary to remove the perceived threat as local communities are influenced by paranoia and superstitions to participate in such

acts of violence (Roy 1998, 136-37). Moreover, discrimination based on gender also intensifies during periods of armed conflict. In Naxal (Maoist) affected states like West Bengal, reports of government security forces raping local villagers during the operations to subdue the insurgent groups often emerge. In these cases, women emerge as direct victims of sexual violence like rape and mutilation, abduction, and displacement. At the same time, they are exposed to the trauma of loss and destitution (CAVOW 2006, 18-19). As these narratives reveal, the range of the forms of violence inflicted on women is quite extensive. While entities like the government, non-profit organisations, social activist groups, etc. deal with these issues first-hand, works of literature address these issues through the mode of storytelling, which often captures the attention of diverse sections of population and disseminates these concerns far and wide. In the historiography of South Asia, sources like myths, legends, chronicles, folklores, etc. often function as the primary material for the writing of “history” or *itihasa* (Thapar 2011, 553-59). As such, historians often employ diverse genres of fiction like the novel or the short story as source material and examine the portrayal of societal issues and conditions from a historical perspective. Here, this paper will particularly focus on three short stories authored by Jagadish Gupta, Tarashankar Bandyopadhyay, and Mahasweta Devi to examine the specificities of violence perpetrated against women in twentieth century Bengal.

A Study of “Payomukham”: Economic Grounds for Perpetrating Violence

The short story “Payomukham”, authored by Jagadish Gupta, was first published in the year 1927. It narrates the story of a native doctor named Krishnakanta who murdered two of his daughters-in-law in secret using his knowledge of medical science and attempted to murder the third to exact dowry repeatedly from the families of the brides. Set against the background of Bengal during the First World War, this story has attempted to portray how inopportune economic prospects and the roots of patriarchal domination propelled a person committed to the oath “do no harm” to perpetrate murders in cold blood.

In the narrative, Krishnakanta forced his elder son Bhootnath into the profession of Ayurveda medicine to elevate his demand as a prospective suitor. However, given that Bhootnath’s academic prospects were unpromising, he had to spread several lies within the social circle that Bhootnath was a highly accomplished scholar who had received his education in Kolkata. Eventually, Bhootnath got married to a nine year old girl named Manimalika and Krishnakanta received a substantial amount of 700 rupees as dowry (Gupta 1958, 480-83). By commodifying his son, Krishnakanta thus not only consolidated his economic status but also used the dowry received as a means of purchasing social prestige, which often translated into upward mobility in the class-based society of twentieth century Bengal. If we look at the records on dowry-related violence, it is observed that the occupations of the husbands are usually concentrated around middle and lower level jobs. Moreover, the negligible number of unemployed and unskilled men in this data proves that a certain level of qualification on the part of the groom was requisite for their family to demand a significant amount of dowry (Prasad 1994, 78).

When a young bride enters the household of her husband after marriage, she is expected to abide by the orders of not only her husband, but also her parents-in-law and often siblings-in-law. As such, she is simultaneously placed under multiple hierarchies of command as a wife, daughter-in-law, sister-in-law, and mother in the patrilocal residence. Any member of the husband’s family can subject her to humiliation and reprimand her for any form of non-compliance and infractions (Purkayastha, Subramaniam, Desai, and Bose 2003, 517-18). Before reformist actions under colonial rule placed some restrictions on child marriage, girls were usually married before reaching puberty. However, with the gradual entrenchment of colonial culture in the Bengali middle class psyche from the late nineteenth century, urban families tended to marry their daughters after they had attained puberty and a certain level of basic education. As Bharati Ray (1991, 3015-16) notes, “This undercurrent of hostility in a traditional joint household was intensified by women’s growing individualism, personal ambition. The mother-in-law versus the daughter-in law syndrome perhaps constitutes the most traumatic power-drama in the domestic pale of a joint family.” Given that the bond between a mother and son is particularly strong in India, both the wife and the mother engage in a power struggle to gain/retain control over the son after he gets married. The only identities of a bride that are considered to be socially

acceptable are that of a dutiful wife and a mother. The conjugal needs of the bride as a “woman” are completely overlooked. As the newly educated generation of brides tended to be more vocal and autonomous, they were often perceived as threats by the mothers-in-law. Quoting Ray (1991, 3018), “Whereas the child-wife of the earlier era, married young and socialised to obey, endeavoured to ingratiate the elderly female authorities and even though begrudging the mother-in-law's dominance, could hardly air her rancour, the new women openly began to resent the hierarchical authority-structure, and put forward their own views in domestic matters.” This contrast can be explicitly observed in the treatment of the family towards Bhootnath's first and second wife respectively. Given that Manimalika was still a child when she got married, Krishnakanta's wife Matangini did not perceive her as a threat. She was not allowed to voice her opinions in the matters of the household and was often chastised and disciplined by her mother-in-law and her brother-in-law Debnath, who was almost the same age as her. Bhootnath's second wife, on the other hand, was an educated young woman. She often clearly expressed her viewpoints regarding the profession of her husband, her necessities and discomfort, household chores, etc. Matangini and Debnath both considered her to be vain because Anupama was comfortable with her beauty and sexuality. Moreover, as Debnath could no longer exert his dominance over the new bride, he often lodged complaints against her with his parents. While Bhootnath perceived Manimalika as his play mate, he regarded Anupama as his companion. And this destabilisation in the hierarchy of the household engaged Matangini and Anupama in a power struggle over Bhootnath. Krishnakanta, on the other hand, did not interfere directly in the management of the household. Although, whenever he had to confront any economic crisis because of losses encountered in business, he patiently waited for his daughters-in-law to display signs of any sickness. Under the pretence of treating them, he skilfully murdered them by feeding them poison so that he could get his son re-married for dowry, which would momentarily cover his economic necessities (Gupta 1958, 483-88). Therefore, it is apparent that there is a firm connection between forces of global economy, increasing consumerist desires, and dowry demands. Here, this paper also intends to highlight the fact that while the explicit form of dowry-based violence resulting in homicide is easily perceptible in these narratives, it often leads to the de-emphasis of the subtle forms of domestic violence inflicted through the means of psychological oppression and intimidation.

Families in Bengal, particularly the ones belonging to the middle class, attempt to cultivate different qualities in their children, irrespective of their gender, to ensure that they will be viewed as attractive prospects during marriage negotiations. Furthermore, several non-economic criteria also influence the terms of the negotiation between the two families involved. As Willigen and Channa remark (1991, 370), “Marriage is a process by which two families mutually evaluate each other. The outcome of the negotiations is an expression of the relative worth of the two persons, a man and a woman, and, by extensions, the worth of their respective families. This estimation of worth is expressed in marriage expenditures, of which dowry is but a part.” A woman's value in her husband's family is significantly enhanced if she is accompanied by a significant amount of dowry. Moreover, this mode of payment is often open-ended and can be demanded several times during the first few years of the marriage. Quoting Prasad (1994, 78), “Since, dowry expresses the hierarchical relations of marriage in India and the lower status of the woman and her parents, the bride becomes a conduit for the flow of gifts and money to the groom's family. Probably that is the reason why the bride becomes a target for emotional abuse and violence in the first few years of marriage at her in-laws' family.” As the plot of “Payomukham” advances, it is seen that Bhootnath was no longer interested to get married again after the tragic death of his previous wives. Krishnakanta grew thoroughly impatient because the diminishing status of his wealth not only led to his authority being undermined in the society but also within the walls of the household. However, Krishnakanta eventually convinced his son to re-marry and received a hefty sum of 800 rupees as dowry. Because the new bride Binapani was dark-skinned, Krishnakanta forced her family to pay an additional sum every month as compensation for her imperfections (Gupta 1958, 492). The third bride Binapani was thus particularly viewed by Krishnakanta as a productive capital asset because the monthly payments made by her family to compensate for her dark skin can be placed in an analogous paradigm with the concept of monthly interests acquired from capital investment. Moreover, the economic stability of the groom ensured that the family of the bride would cater to each

and every demand of the groom's family for the sake of their daughter's security and happiness. And this apparent economic stability enabled Krishnakanta to get his son married for a third time, even after both his previous wives had encountered sudden illnesses and deaths.

While the narrative primarily explores the conditions of violence, it is interesting to note that "Payomukham" also engages with the discourse of resistance. When Bhootnath found out that his father was exacting additional sums of dowry as compensation for his dark-skinned wife, he assured his wife's family to discontinue the payment. Moreover, when Binapani contracted cholera and Krishnakanta attempted to murder her, he intervened and recommended his father to commit suicide by consuming the same poison which was originally intended for his wife (Gupta 1958, 492-94). There are female voices of resistance too. Anupama defied the traditional patriarchal hold by adhering to non-conformism and voicing her thoughts and opinions in everyday life. Hence, the voice of resistance against violence can emerge from any individual, irrespective of the gender or position, even when the violence is directed at a particular gender.

Analysing "Daini": Trajectories of Social Violence

Tarashankar Bandyopadhyay's "Daini" stands out as an emblem of silent resistance. First published in the *Prabashi* magazine in 1940, it narrates the story of a lower caste woman named Surodhuni. Socially humiliated and ostracised throughout her life for her unconventional appearance, she was branded as a witch from a very young age. Given that misfortunes and deaths often occurred in her vicinity, these coincidences and the collective social brunt eventually led her to believe that she was genuinely responsible for these incidents. Leading a solitary life on the outskirts of a village, she was displaced from one place to another throughout her life. Eventually, she died after being impaled upon a sharp branch of a tree while fleeing from the wrath of the local people during a storm (Bandyopadhyay 1952, 476-89).

Surodhuni lived in a small hut which faced a huge expanse of dry and barren land. The people of the village Chhati-phata were convinced that her malevolent gaze had sucked out the moisture from the land and the adjacent sources of water. Moreover, when young Surodhuni had started salivating at the sight of another young boy having a mango and the boy developed a stomach ache, the parents of the boy were convinced that she was a witch and her gaze had exposed their son to the sudden illness. Profound physical and verbal abuse eventually persuaded orphan Surodhuni of her guilt and she begged before God to reform her evil sight or to make her blind. Incidents like these occurred abundantly throughout her life. Eventually she was even accused of killing her own husband by drinking his blood, while he had actually died because of developing tuberculosis. Given that diseases like cholera and tuberculosis could make the victims cough up blood, people branded Surodhuni as a vampire in her youth (Bandyopadhyay 1952, 476-87). When rationally analysed, these incidents turn out to be coincidences, often resulting from a bad diet, environmental condition, or contraction of a chronic epidemic. However, societal pressure, prevalent superstition, and lack of education eventually turned an ordinary human being against her own self. She was so convinced of her guilt that it managed to silence her voice against any form of abuse she encountered. The background which conditions the economic subjugation, sexual oppression, and persecution of orphaned, widowed, and independent/vocal women is complex. Villagers in remote corners of Bengal often accredit a range of unpleasant incidents such as accidents, sudden deaths, chronic epidemics, crop failures, etc. to witchcraft. According to Taussig (1984, 494), "It is in the coils of rumor, gossip, story, and chit-chat where ideology and ideas became emotionally powerful and enter into active social circulation and meaningful existence." Here, the recognition of a particular woman as a witch also involves an equation of gendered suppression and persecution. In tribal areas, where the occurrence of witchcraft related violence is particularly high, women do not risk the possibility of being labelled as a witch by opposing the norms and traditions practiced by the society. Local witch doctors, who are assigned the task of identifying a witch, often collude with the influential people of the area who want a particular threat to be removed. Given that illiterate and superstitious people hold the verdict of the witch doctor in high esteem, the identified woman is exposed to the brunt of collective social boycott and violence (Roy 1998, 136-43). As to why independent women and widows are particularly identified as witches, Puja Roy (1998, 144) remarks,

“widows and single women are not controlled by any man, hence they have the freedom to harm others. The assumption that women are essentially evil, and that only men can control them, embodies all those values that suppress women in a patriarchal society. Violence against women is a clear indication of their degraded social status and vulnerability, and witchcraft-related crimes exemplify this.”

As the narrative of “Daini” portrays, Surodhuni was repulsed by her own sight when she viewed herself in a mirror. It was her brown eyes and reddish hair which made her stand apart from others around her (Bandyopadhyay 1952, 476). Eventually, she could no longer distinguish between her own “self” and the conceived notions of the “other”. Even when she attempted to help the people around her, their irrational fear often led to unfortunate incidents. For instance, she wanted to help a young man from a lower caste reconcile with his lover by offering him her silver bangles and a few rupees. However, he was so frightened at the sight of her approaching him that he attempted to run away very fast, thereby falling down and fracturing his leg. The villagers accused old Surodhuni of cursing the young man and decided to summon a witch doctor to punish her (Bandyopadhyay 1952, 485-88). The process of “othering” thus generated irrational fear in the psyche of people. Even acts of kindness were perceived as threats. As evident here, “fear” itself generated a space where fear could be re-imposed. Given that hegemony could not be established without the creation of the “other”, fear and violence are portrayed as political constructs in this narrative.

Hence, it is the very potential of the power of unconventional women and their simultaneous marginality that lead to the identification of women from lower castes as witches. The lack of discernible resistance on the part of Surodhuni and the culmination of the narrative in her death thus offer a different perspective on the notion of resistance against dominant discourses. Silence has its own voice, and this is what Tarashankar’s “Daini” seeks to convey. Through her death, Surodhuni herself became the medium of her freedom and agency.

An Appraisal of “Draupadi”: Examining Premises of Political Violence

Mahasweta Devi’s short story “Draupadi” marks a significant juncture within the discourse of feminist literature of India. First published in the magazine *Parichay* in 1977, the story is set against the background of Naxalite Movement in Bengal and focuses on a tribal woman named Dopdi. She and her husband were comrades of the local insurgent group and, therefore, fugitives from law. While her husband was immediately executed after he was apprehended, Dopdi’s capture was followed by an elaborate cycle of torture in the form of gang rape and psychological humiliation. However, instead of succumbing to this patriarchal mode of subjugation, she used her body as the instrument of resistance, which was itself the site of her violation.

West Bengal has been one of the strongest centres of communist intellectualism since the second half of the twentieth century. The principal targets of these Leftist insurgent groups were the long-established oppressors of the peasant communities and farm workers and they attempted to destabilise the unofficial collusion between the government and the landlords (Spivak 1981, 385). Along with the marginalised sections of the society like the tribes, Dalits, and the peasants, a significant number of women also identified with the communist struggle as they sought equality and agency. In this context, “the enforcement of binaries - solely as either perpetrators of violence or victims of violence - while viewing the role of women in conflict zones eschews our understanding the multi-layered experience of women. On the one hand, the Naxal movement has given women from India’s rural and tribal belt the opportunity to take up arms and activities that have been usually reserved for men. At the same time, the external patriarchal structures are re-created and re-imposed in the form of sexual abuse, rape, denial of seats at the high tables and falling back into gendered roles once the conflict is over” (Narain 2017, 15).

Captured prisoners are usually subjected to repeated cycles of torture. Particularly when high profile prisoners are captured, the captors often take turns to inflict torture individually. In the case of women, they are repeatedly raped by the official personnel until they concede, thus signifying the triumph of patriarchal subjugation over the marginalised female. This form of political intimidation is not instigated by any individual or a group; it is often means on the part of the state to exert their control over dissenting people. Dopdi’s long-awaited capture created a similar environment of enthusiasm and relief in the camp (Devi 2004, 69-70). The incapability of the General and other government personnel

to apprehend a woman over the years actually challenged their masculine identity. As such, by engaging in the act of rape and torture, they attempted to re-establish their physical authority over Dopdi. At the same time, torture seems to have been conceptualised as a form of entertainment to break the monotony of the quotidian. Moreover, while the General was sympathetic to the doctrine of insurgents like Dopdi, he believed in the ideology that in order to destroy the enemy he had to become one (Devi 2004, 62). Thus, the fine line between the pre-conceived notions of “civilised” and “savage” gets blurred. The actions of the General actually enabled the creation of a space of violence to justify his own ends. In his attempt to interchange ranks, the physical torture and psychological humiliation that was inflicted on Dopdi under his command actually consolidated the culture of violence which his civilised intellectual self had previously condemned. When she defies the General by refusing to cover her disfigured body at the end of the narrative (Devi 2004, 70-71), she “figuratively forces her captors to confront an image of their own brutality, for which her exposed and mutilated body becomes a signifier” (Chakravarty 2012-13, 130).

Mahasweta Devi reimagines the portrayal of mythical Draupadi by situating her in the contemporary socio-political and historical backdrop of the Naxalite Movement in Bengal. Quoting Sharma (2017, 6), “Instead of destroying the intricacies of myths she indulges with these deconstructive theories to eventually recast them as the metaphors of empowerment and affirmation.” In the narrative, Mahasweta introduced us to Dopdi as part of a conversation between two armed personnel, who were examining the two versions of her name – “Draupadi” and “Dopdi”. While the differences in pronunciation merely distinguish between the Sanskritised and the tribalised form of the word “Draupadi”, Dopdi is a reimagined and demythicised avatar of the eponymous Draupadi from Mahabharata. When Draupadi’s eldest husband lost her to the Kauravas in a game of dice, she did not emerge as a heroine in her own right. Though her status as a polyandrous woman situated her in an apparent position of authority over the five Pandava brothers, she was reduced to nothing but a commodity which the eldest brother staked at the game. Instead of generating her own narrative of defiance, she turned to the incarnate Krishna as the Kauravas began to disrobe her in public. It was Krishna’s divine intervention that preserved the “dignity” of Draupadi in the ancient epic. The character of Dopdi, on the other hand, has been thoroughly reimagined by Mahasweta. She was easily disrobed by the armed personnel and repeatedly raped throughout the night on the day of her capture. However, she did not show any signs of mortification and questioned the guard proudly when he ordered her to enter the General’s tent. As a symbol of defiance, Dopdi refused to cover her mutilated body and tore the piece of clothing she was offered. In spite of the fact that she was naked and vulnerable, she declared that there was not a single man around her who could make her feel undignified. As Dopdi pushed the General back with her bruised breasts, he was genuinely terror-stricken by an unarmed captive for the first time (Devi 2004, 69-71). Instead of relying on male intervention, Dopdi engendered her own instrument of resistance. Unlike her legendary counterpart, Dopdi countered the patriarchal construct of “sexual honour” and transformed her victimhood into agency. Overcoming the sentiments of guilt, fear, or shame that are customarily associated with rape and other forms of sexual oppression, Dopdi subverted this discourse of political violence by rendering the violence itself impotent. As Spivak (1981, 388) remarks, “She is what Draupadi – written into the patriarchal and authoritative sacred text as proof of male power – could not be.” Therefore, Mahasweta Devi’s “Draupadi” emerges as the representative of the marginalised sections of the society like the tribals, Dalits, and women in their quest for transcending the subaltern status and making their voices heard in the wider cultural and socio-political milieu of the nation.

Concluding Reflections: A Culture of Violence?

Picking up the thread from where we began, this paper has thus elucidated how violence perpetrated against women in twentieth century Bengal was endemic. Its pervasiveness impacted the existence of women not only within the domain of the household but also in the public sphere, irrespective of class, caste, marital status, domicile, etc. This culture of violence was not necessarily conditioned by any individual or random rationale for brutality. Rather, it was consciously cultured and sustained by the economic, socio-cultural, and political milieu of the time. In this process, it was aided by diverse

elements like economic difficulties resulting from war, forces of global capitalism, class divisions, casteism, superstition, illiteracy, patriarchy, state-sponsored oppression, and so on.

In this context, Michael Taussig's contention on "culture of terror", developed in his analysis of Roger Casement's Putumayo Report, can be placed in a parallel framework to elaborate on the culture of violence in twentieth century Bengal. As Taussig explains, the question regarding the agency of narration influences the process of writing effectively against terror. "Terror" often becomes subjective when narrated from the point of view of a particular agent (Taussig 1984, 467). This argument can also be situated in the context of socially sanctioned violence like witch-hunting and state sponsored political violence against insurgent groups in Bengal. When examined from contrasting viewpoints, the justification for violence on the part of the villagers of Chhati-phata and that of the General undermines the narratives against violence perpetrated by them.

Moreover, according to Taussig (1984, 469), "Cultures of terror are based on and nourished by silence and myth in which the fanatical stress on the mysterious side of the mysterious flourishes by means of rumor and fantasy woven in a dense web of magical realism. It is also clear that the victimizer needs the victim for the purpose of making truth, objectifying the victimizer's fantasies in the discourse of the other." The elaborate process of identifying a woman as a witch and the subsequent undertaking of collective social intimidation in twentieth century Bengal was conditioned by a similar process of cultural "othering" and myth-making. Guided by superstition, illiteracy, and patriarchal regulations, the people constructed the idea of a witch to justify societal realities. In this case, the individuals labelled as witches were forced to live in such a heightened state of fear that their lack of resistance translated into "truth". And, this process of censoring existence through fear and violence dismantles the public sphere, thereby ceasing the progress of a civil society.

Taussig also argues that market pressure often acts as a trigger in the instigation of terror and torture. The lack of "commoditized social relationships", in interaction with forces of global capitalism, guides the production of torture and terror (Taussig 1984, 479). In India, there is currently a legal restraint on the commodification of domestic or familial relationships. However, such customs were not censured during the first half of the twentieth century. Aggravated by elements of capitalistic greed and destabilisation of political economy in a society ravaged by several wars, the graph of dowry-based homicide climbed significantly higher during this period.

Although Taussig talks about the importance of counter-discourses, the culture of terror is ultimately sustained in his examination of the colonised people of Columbia's Putumayo plantation. Citing that the narratives of Casement were to a certain extent fictionalised, Taussig does not partake in the task of locating narratives of resistance. As the binary between the "victim" and "victimiser" is not bridged, the ontological concerns and epistemic exercises of the colonisers transform the space of terror into the "space of death" (Taussig 1984, 471-95). On the other hand, this particular research on the culture of violence in twentieth century Bengal shows how works of fiction can generate counter-narratives against the silence imposed by dominant discourses. In the face of intimidation and violence, characters like Bhootnath, Anupama, Surodhuni, and Dopdi thus engendered their own sites of resistance, thereby becoming representatives of the struggle of marginalised individuals and communities in twentieth century Bengal. As the binaries like "victim-victimiser", "dominant-marginalised" were substantially bridged, the culture of violence was also simultaneously subverted.

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Creating Guilt in Business

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ABSTRACT: This article describes the behavior of people involved in business relations, which seeks to meet individual needs as well as those of organizations. The need manifested through actions or inactions at individual or organizational level leads to enforcement of a guilty, capable of being sanctioned. If the guilt of the physical person is represented or guided by internal stimuli, so also the guilt of the organization or enterprise is represented by the satisfaction of the needs, of its needs, carried out legally or apparently legal by its organs. Unlike the typical entrepreneur's typology, the entrepreneur who adopts illicit business behavior plans, focuses, sets goals, allocates resources, creates products or services tailored to obtain the illicit outcome, observes as a rule the plan for increasing the number of victims, identifies new channels to attract potential victims, creates an apparent brand to capture and determine the victim to accept the illicit offer as an auction.

KEYWORDS: business, organization, guilty, entrepreneur, focus, business victim, apparent brand, need

Introduction

The social nature of human beings has determined that behavior has an adaptable significance in the realization of individual needs. Any human behavior has a certain meaning and depends on both the individual and the environment. The voluntary act of any person is related to his / her own motivations and pulsations, thus realizing the fundamentals of affectivity. The tendency to commit an act must fit into a certain behavioral structure that will withstand the socio-moral demands imposed by law (Daneş and Papadopol 1960, 267). The violation of the rules and general principles of human behavior determines the fair sanction of those who violate them and must ensure their social reformation. The way to react to a certain fact is determined by the possibility of adapting the individual to the situation.

Responsibility of the illicit entrepreneur - a sine qua non condition for the work done

Individual responsibility implies a personal commitment to accept the sanction of the authority for violating social or moral laws. Effect of lack of accountability, the punishment of the author intervenes for legal liability (criminal, civil, administrative) or for moral responsibility. The responsibility of the perpetrator of the act lies in the fact that there is a causal link between his act and his dangerous result.

Human activity is preceded by a psychic process that is objectively characterized by a concrete act. Human psychic activity is not a simple form of appreciation and response to natural and social stimuli, because before acting, the individual decides on the realization of a performance, which he leads and controls through the concrete form of manifestation (Bulai 1997, 155).

In the course of criminal activity, which will produce a socially dangerous result, there is an individual's concern for the regulation of behavior by anticipating the outcome in relation to the intended purpose and mobile action. The decision to commit a dangerous deed is always done for the perpetrator to achieve a conscious goal (Sutton and Rao 2014, 108).

The attitude of the individual is dependent on the environment, on social relationships and activity, adapting and reacting to environmental stimuli. Individual behavior also depends on sensory signaling, psychic acts that will determine the relationship between the individual, personality, and the environment. Disruption of brain processes generates annihilation or reduces individual mental processes that provide behavioral balance and individual orientation in relationships with other individuals (Sutton 2010, 168). There is a direct connection between the action and the person who commits it, in the sense that the result is assumed by the author and produces the consequences sought or not accepted by the author. The connection of man to the environment is accomplished through sensations, which are psychic phenomena resulting from the

stimulation of a receptor organ, thus obtaining the concrete attributes of objects and phenomena in the form of simple (simple) images.

Human activity is initiated and accomplished in a way that will ensure that it has a certain interest in adapting to the external environment. Closing or overcoming obstacles implies the existence of a decision and an active control to ensure behavioral stability. Deliberate actions prove the existence of the ability to represent the result in relation to the necessity of its production. The conscious and pursued goal of the individual corresponds to the motivational motivation, leads and controls the way the action is performed (Antoniou 1995, 78). From the multitude of purposes, the mentally chosen is the one who adapts to the concrete conditions. In performing any voluntary action, it also reflects the affective way of assessing its consequences, by mobilizing and concentrating the psycho-vigorous energy to reach the goal through the firm choice of decisions.

The phases of the illicit willful act of the businessman

In the realization of the voluntary act the individual behavior requires the following phases: the emergence of the action idea determined by the tendency, the need realized by a concrete situation. It imposes a certain tonality in meeting individual needs, causing feelings and passions on motivating needs and the intensity of this motivation. Behavior is motivated by internal changes (neuroendocrine) and external stimuli (medium) that act on the brain.

The confrontation of the action motives presupposes the rapid succession or the coexistence, under the influence of the external factors or the internal idea, of several reasons that move the human organism, until the acceptance of a reason and implicitly to the reduction of the motivational confrontation. But because any behavioral attitude is based on a number of conscious and unconscious, physiological, affective and social factors, they will be motivated by individual, moral or immoral behavior (Padovani 1990, 201).

The Voluntary Act provides active freedom but also determines social responsibility because conduct is determined by individual action motives. In the sphere of causality, any action requires individual responsibility, for the perpetrator has the possibility to do or not to act.

Adoption of the judgment explains the rational design of an action plan, the orientation towards a predetermined purpose, and the assessment of the individual capacity to achieve the goal by using, concentrating and directing all individual actions. The will of the individual will analyze and integrate processes and mental states in the voluntary activity assessed by reference to previous experience, by unifying affective energies and by suppressing trends contrary to the intended purpose. The decisional act also includes the personality traits of active temperament (Tănăsescu 2014b, 199), the desire to act, the fear of failure.

The intensity of the will is found in the significance given to the action and in the effort of accepting the main reason and in the decision to achieve the purpose of the action. The voluntary setting of the action involves direct, permanent and stable confrontation between the mental plan and the action plan.

Execution of the adopted decision consists in the effective realization of the action plan and concrete fulfillment of the proposed goal. Achieving the goal requires the use of specific material and mental means, the excessive desire to properly execute the mental plan as well as the modification and adaptation of the plan to the concrete conditions.

The individual performs simple actions immediately, with a low psychological effort, and complex actions require returns to improve the plan, a moment of preparation between judgment and execution, acquiring knowledge, improving skills, revolt against established rules. The lack of favorable conditions leads to the occurrence of the inhibition that offers the termination of the voluntary act, the postponement of the execution or the triggering of the voluntary act (Petricu and Voiculescu 1967, 334). The intensity of the effort of will is imposed by the individual experience, the concrete conditions, the character of the individual, the needs. Voluntary acts are aware of the individual being accompanied by vigilance and strong emotions in the execution of the act or are consciously determined by unconscious motivations.

At certain moments, the individual also proceeds to verify the result of the product in order to arrive at conclusions about how to achieve future facts at a high degree of appreciation by adopting methods and using specific means by forming new skills that will characterize the capacity of his or her voluntary effort.

The voluntary act exists and develops as a result of the individual's need to carry out countless actions to achieve certain results under different action circumstances.

Social conflicts are the source of imbalance and tension, of socio-individual confrontations both mentally and physically. Action-illicit omission (omission) causes social confrontations and requires the formation of social structures for interaction and sanction by society. The social approach to any illicit deeds has to be found in the interactive structure: the illicit act - the social reform punishment (Tănăsescu 2014a, 234).

The offense provokes a conflict between the perpetrator of the act of contesting the form, the content of the social relationship and the idea of the stability of the social relationship protected by a criminal norm. The conflict between the perpetrator of the illicit deed and the established legal norm and adopted precisely to ensure the exercise of the rights of other individuals determines two possibilities: the social reform of the individual by punishment or the reformation of the punishment system by removing obsolete obstruction rules, tightening or reducing the sanctioning role of punishment (Lăpăduși, Voinea 2015, 298). Legislative will enshrines the principles, rules, and rules that necessitate the recommendation of an abstract attitude or behavioral manifestation by participants in concrete social relations, as well as the legal consequences deriving from their willful violation.

The sanctioning of an illicit act is in line with social reality because it takes place in an interaction sphere: illicit deed - illicit punishment. The social experience of the perpetrator, the different inter-individual confrontations he has solved, determines an original sense in the mechanism of accepting or rejecting punishment.

The analysis and synthesis of the elements that make up the action as well as their comparison determines the awareness of the consequences that determine the inconsistencies or inconsistencies between the individual's appreciation mode, the level of consciousness, and the relationship established between the action of the consciousness committed and the representativeness of its consequences. Individual psychic activity is dominated by impulses, tendencies, instincts, innate spiritual qualities that form unconscious life, and the control exercised over them by conscious life (Padovani 1965, 187).

Conclusions

As a rule, an illicit entrepreneur creates, develops and adopts ideas that relate to a certain social value. It sets the principles, criteria for that value, and tries to force them to be known by as many people as possible. Depending on the status of the person who spreads the idea, it aims at developing, implementing it in different types of relationships. It models the implementation of the idea in such a way that it is adopted and respected by as many victims as possible. After checking in pilot projects, the idea is scaled globally, as well as in other areas, the idea becoming a standard in illicit.

Once the idea has been implemented to a certain standard in illicit business, illicit entrepreneurs focus and become aware of the activities they carry out, and after a certain period they enter into a habit that leads to a lack of control. If the application of the standard was creative and followed step by step, after the illicit business model scaled the creativity suffers, the focus on the implementation mode diminishes, the number of mistakes increases, and the illicit business man becomes negligent, anxious, and the relationships within the environment illicit or changing, the organization losing its trust in its leader.

As a paradox of trust, illicit organizations in criminal activity rely on trust, which must be secure, sincere among members of the group, in order to achieve the goal of harboring the trust of future victims.

In national societies, compliance with legislation generates values or non-values related to honesty, fairness to the defense of company or staff assets. Confidence in the standard, in the period

between implementation and habit, gradually decreases with the transformation of a volunteer slave (Tănăsescu 2018c) into a new leader, with new ideas, new methods, following a new stage of integration. As a rule, standards do not provide for a uniform sanction even from creation. Only after the breach of the standard begins, each illicit or implementing organization begins to establish a system of sanctions for various deviations and pay more attention to disregarding confidence.

States or organizations, when establishing trusted standards of trust, that entrepreneurs and individuals have to respect, from the outset, create, modify and apply the same sanction for the same type of offense. The uniformity of sanctions for disregarding trust at global level must be a common goal to create the same legal, economic, social framework, compared to the same standardized value, trust thus becoming a value of social relations, sanctioned the same in every state. Differences in the creation and enforcement of sanctions are those that allow an unacceptable elasticity of the standard, which remains thus obsolete.

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The Special Measures Taken During Administrative Monopoly Investigation in China

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ABSTRACT: China's market economy is based on state power guidance, so the administrative agencies may abuse their public power excluding or restricting market competitions that cause administrative monopoly. The special investigative measures should be taken in administrative monopoly investigation on account of its public power background. Mandatory interview with executive officers and mandatory reporting of the administrative agencies are the mainly special measures during those investigative procedures, while on-site investigations need to be avoided. Unlike ordinary measures, these two special measures are mandatory which means if the investigating authority or its chief executive rejected report or interview who will be admonished by his superior even punished by crime of dereliction. Recently the Chinese People's Congress Standing Committee is studying how to revise the antitrust law, we suggest to add those special mandatory measures in the future Chinese Antitrust law.

KEYWORDS: investigation, measures, administrative monopoly, Antitrust Law

Introduction

Administrative monopoly has been existed in China for a long time, dating to planned economy times. The government agencies and the authorized public organization use their power to excluding or restricting market competitions in order to acquire regional or industry interests, which has seriously blocked the economic development in China for a long time. China has begun its market economic reform since 1994, but the reform and open policy of China still cannot eliminate the administrative monopoly which even harm to political reform. The cause of those is complicated (Zhang 2011, 56). There is a long history of feudal bureaucracy in the country where the government agencies controlled everything of the society. No rule of law but bureaucracy had been deeply infected the people's thoughts. State enterprises were popular in some business area.

All those elements laid a deep foundation of administrative monopoly in China. How to control and limit the administrative monopoly has been a very hot potato present to the Chinese government now. At August 1st. 2008, Chinese Antitrust Law came into force, and the fifth chapter specially regulates the content of administrative monopoly, which indicated the legal measures to regulate administrative monopoly. (The antitrust law of the People's Republic of China, Fifth chapter (article 32nd to 37th) provides the abuse of administrative power to exclude and restrict the competition for which causes administrative monopoly). The regulation in Chinese Antitrust Law is helpful to stop the abuse of administrative power caused monopoly, however, the law neglected the procedural of monopoly investigation. How to investigate administrative monopoly when they got the clues in some case will be a thorny problem the investigative authorities should face. Dawn Raid or on-site inspection, the measures which often used in economic monopoly investigation are failure to comply with the theory of administrative law in China, so they need special measures to take during administrative monopoly investigation.

Administrative Monopoly Characteristics

When we discuss the measures should be taken in the administrative monopoly investigation procedure, we should first have a look of the characteristics of administrative monopoly in China. The most important differences of administrative monopoly from the usual economic monopoly are the public power background which constructed the base of administrative monopoly (Wang, Wang 2007, 31). According to the Law of Chinese Antitrust, there are four situations in administrative monopoly.

(1) Designated purchase: Refers to the compulsory purchase or use of goods produced by a designated operator. Sometimes the government agencies including official enterprises or organizations of official nature command the buyers to order the designated goods or services. The buyers lost their rights to choices the commodities and the producer lost their rights of market competition.

(2) Obstruction of the free flow of goods: Refers to the use of various discriminatory administrative means by government agencies (including official enterprises or organizations of official nature) to impede the free circulation of goods between regions. Often, some local government departments develop special rules for the entry of certain commodities into the region, such as testing standards, special quality requirements, etc., which prevent outside goods from flowing into the region.

(3) Restrictions or exclusion of nonlocal operators: Refers to the use of discriminatory and unjust means by government agencies (including official enterprises or organizations of official nature) to exclude or restrict the participation of nonlocal operators in local bid activities, and to exclude or restrict the nonlocal operators to invest or establish branches in local region.

(4) Compulsory operator monopoly: Refers to the government agencies (including official enterprises or organizations of official nature) to use administrative power to reach an agreement with the main enterprises in some industry field to violate the rules of fair competition in market.

From the theory of administrative law the above four situations of administrative monopoly in China can also be divided into four administrative behavior types.

(1) Abstract administrative action: Refer to the government agencies restricting or excluding fair market competition by the means of formulating red head documents which is the policy or rule in economic field. The unlawful abstract administrative monopoly may cause larger harm because they usually have universal applicability in local regions. In practice, many administrative monopoly behaviors are implemented by the mode of abstract red head documents, but they are very difficult to redress for there is no independent judicial review system in China. The efficacy way to redress that abstract administrative action is to report superior government to review and revoke them.

(2) Concrete administrative action: Refer to the government agencies abusing power to command specific enterprises to do something or forbid doing something. Concrete administrative monopoly behavior is often implemented by mode of abstractive monopoly action and it could be redressed through administrative litigation system in China.

(3) Administrative nonfeasance: Refer to government agencies to take passive administrative action or nonfeasance in view of their own interests, which lead to administrative monopoly. Administrative nonfeasance often is good concealing and difficult to prove its character of abusing administrative power because of the complex administrative responsibility system. A typical example is the government's delay in responding to an application for a new product test, which will hind the new product flowing into the market and attending the market competition.

(4) Joint administrative action: Refer to the administrative agencies and the enterprises jointly make the exclusion and restricting competition by means of agreement and so on. In reality, many administrative monopolies are accomplished by the collaboration of administrative agencies and specific business owners. Often these enterprises are big enterprises or public enterprises that are specially supported by the government.

A common nature of these acts is the abuse of public power, which is different from the private nature of economic monopoly behaviors, and the public power nature of administrative monopoly determines that its antitrust investigation should have to be clearly discussed according to administrative law theories. Who has the power to investigate those abuses of executive power? In theory, it is necessary to demonstrate that the administrative supervision and being supervised relationship between the antitrust enforcement authorities and the administrative monopoly agencies (including official organs or organizations of a public power nature) are legally established. The antitrust enforcement authority is the state administrative law enforcement agency, which is called the administrative subject in administrative law theory, and has the administrative power to

manage the state and social public affairs. The subjects of administrative monopoly, that is, the administrative organs or social organizations under investigation because of the abuse of administrative power to restrict market competition, are also the administrators of state or social affairs in certain fields. So can antitrust investigation enforcement authorities, as administrative subjects, have power to investigate other administrative subjects with other areas of administrative power?

According to the basic theory of Chinese administrative law, the administrative subject is essentially a dynamic theoretical concept, that is, only when the administrative organ or social organization with public service functions exercises the legal administrative power, can it become the administrative subject. The administrative subjects manage the state and social affairs will be restricted by articles of Chinese administrative law for legality and rationality. When administrative organs or social organizations with public service functions do not exercise the statutory functions conferred upon them by laws or regulations, these organs cannot become administrative subjects, but only static administrative organs or social organizations in general, which are subjects to the supervision of other administrative subjects in their daily work. In other words, when any administrative organ exercises executive power in its statutory terms of reference, it is the administrative subject and has the status of manager, but when it does not act within its own executive area, it is just a common organ and needs to be managed by other administrative agencies with management powers. (Hu 2015, 65) Therefore, the antitrust law enforcement authorities in the scope of their statutory duties have the power to investigate whether the other administrative organs (including organizations with the nature of public service functions) having abused its statutory power to cause administrative monopoly.

The special measures taken during administrative investigation

Administrative monopoly has the background of public power, which different from economic monopoly, so the investigative procedures including the investigative jurisdiction evidence measures and other procedural stuff need to be designed in line with the rules of administrative law. Firstly, it is necessary to improve the jurisdictional level of antitrust investigations. The administrative monopoly which is clearly caused by abuse of public power cannot be investigated by the antitrust enforcement authorities below the being investigated agencies because of their lower administrative rank might block their investigation. For example, to investigate the agencies belonging to provincial government must be the state administrative authority.

Secondly, it is necessary to establish self-revocation system among the processing of administrative monopoly investigation. When an antitrust enforcement authority investigates an administrative monopoly, which caused by an illegal administrative warrant or an administrative order, it shall require the administrative agency to revoke or annul the administrative warrant or administrative order on their own. If the administrative agency does not revoke or annul by itself, the antitrust enforcement authority shall submit its illegal behavior to the government it belongs. The government to which it belongs has the duty to revoke or annul the warrant or order immediately.

Thirdly, it is necessary to establish superior revocation system among the processing of administrative monopoly investigation. When an antitrust enforcement authority investigates an administrative monopoly caused by enacted an inappropriate or illegal administrative provision, it shall submit the illegal administrative provision to the government to which it belongs for annulment or revocation, and if the government to which it belongs does not revoke or declare the illegal provision null within the limited time, the antitrust enforcement authority may submit the illegal provision to its superior antitrust enforcement authority, who shall submit the illegal provision to the government which is the superior government above the government to which the provision maker belongs. If the superior government above the government to which the provision maker belongs doesn't null or revoke the illegal provision within the limited time either, the State Council at the highest government must perform the duty to annul or revoke the illegal provision.

Fourthly, it is necessary to take mandatory reporting measure among the processing of administrative monopoly investigation. The investigation of administrative monopoly may adopt the compulsory reporting system, that is, when the administrative agencies or public service organizations were suspected of engaging in monopolistic behaviors should report the relevant matters to the antitrust enforcement authorities on the initial phase of investigation. The reported statement should be a formal official statement on which includes the purpose, action method, legal basis of suspected monopoly behaviors.

Fifthly, it is necessary to take mandatory interview measure among the processing of administrative monopoly investigation. Since the administrative rank of antitrust enforcement authorities may not be higher than that of the administrative agencies under investigation, the law must establish a compulsory interview system, that is, the head of the administrative agency under investigation must, when notified by the antitrust enforcement authorities, go to the antitrust law enforcement authorities to receive interviews with anti-investigators, provide the necessary information on related matters.

In Chinese government agency system, the investigation authority and the investigated agency have the common national interests, and are co-led by the highest state government. Their actions both represent the government interests. Their property and personnel are also derived from the government. So it is difficult to investigate the administrative monopoly with the traditional enforcement measures, such as on-site inspection, seal of places, and seizure of relevant information, goods and equipment, which are commonly applicable to the investigation of economic monopolies. The above points fourth and fifth are the special compulsory measures advised in this paper to take during administrative monopoly investigation procedure, which may be the sole way for antitrust enforcement authorities to solve the interference brought by administrative agencies during the procedure of administrative monopoly investigation because of their government organ status.

Conclusion

Through the above analysis, we can draw the conclusion that although the antitrust investigation authority is a kind of administrative organ in the system of government, its nature and function are the same as other government organs that cause administrative monopoly, but it still has the power to investigate whether the government organs with other state powers have abused their powers to have administrative monopoly behaviors, and to impose penalties for such monopolistic acts. Administrative monopoly has different characteristics from the general economic monopoly. In China, a country with a bureaucratic tradition, the administrative monopoly characteristics will appear more prominent, more harmful so in order to maintain the order of market economy and standardize the operation of government power, the legislator must amend the existing provisions of China's Antitrust Law. We propose to increase the special investigative procedure of administrative monopoly in the future revision of antitrust law, and establish the special compulsory investigative measures in administrative monopoly investigation procedure.

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The Potential of the Church in Contemporary Culture

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ABSTRACT: The Christian Church is going through an extremely critical period, highlighted, on the one hand, by the church members' lack of preoccupation for new spiritual ideals and, on the other hand, by the disinterest of those who do not belong to any religious spheres in any church proposal. The statistical situation of the Church must be analyzed responsibly and visionary. This approach can bring a last argument in favor of abandoning the project or, on the contrary, it can open the eyes of those in charge to new possibilities of introducing the Church among the options to be considered, in a society that lacks durable landmarks. The revival chances of the church will increase in direct proportion to its interest in an honest diagnosis and in an urgent return to normal functioning parameters by assuming its biblical mandate. This can be achieved by renewing its offers to the public, by increasing attractiveness from many points of view, and by changing the direction of its actions, from centripetal to centrifugal. Instead of continuing to promote an agenda against postmodernism, the church should be looking for ways and means to become relevant in the current cultural reality.

KEYWORDS: Postmodernism, society, church, spirituality, culture

Introduction

In this article, we intended to briefly analyze the general situation of the contemporary Christian Church, seen both through the eyes of its members and those of the general public, and described by statistical data and social realities that cannot be disputed. The current state of the Church will be just the starting point in trying to reaffirm the sustainability of a Project that God launched in order to save mankind, which has preserved the same profound needs regardless of the historical ideological changes it has been through. To the legitimate questions posed by any faithful person in charge of the future of the Church, we tried to provide a realistic answer, based on theological and social certainties. As for the message which the Church must present to a hopeless society, whose suffering is increased due to confessional alienation, that must take into account both reality and perspective.

The general situation of the Church in terms of public perception

When we talk about the Church, we usually refer to any local church that should be a source of inspiration and power for those looking for God, a place where the spiritual virtues "love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, and self-control" (Galatians 5:22-23) are cultivated and fully lived. Actually, local churches in many parts of the world are going through difficult times, both in terms of image and influence. Many claim that the Christian Church is increasingly losing its influence, especially in the western part of the planet, where the last believers could soon attend the last religious service. Statistics, as well as academic studies, talk about an irrecoverable loss of the saving influence of the church. According to the World Values Survey (WVS n.d.), a study conducted at regular intervals at the World level since 1981, six sociological assessments have taken place so far: 1981-1984, 1989-1993, 1994-1999, 1999-2004, 2005-2008 and 2010-2014, to which we will also refer. Subjects from all continents participated in each of the steps of the study. We will refer to the European section of the last study, comprising 15 states that were considered relevant in terms of religiosity, spread over a very wide geographic area (from Russia to Spain), with a different economic level (from Armenia to Germany), having different religious mores (Poland - Roman Catholicism, Romania - Orthodoxy, Kazakhstan - Muslim), officially having declared secularism (Estonia) or a religious state (Turkey). In each of these countries, the questionnaire was applied to an average of 1,500 people, using field operators for face-to-face dialogues or telephone calls, the results being nationally representative. During the discussion, we will only use the significant data for the objective of our discussion (Yes /

No, For / Against), making no reference to the percentage of incomplete answers. In addition, we will only analyze the results from the countries which are declared Christian. In many European countries, the percentage of those who still declare their faith in God has dropped, even if a form of religiosity, with a changed meaning, is still preserved. According to the aforementioned study, in terms of the significance of religion, as a distinction between following religious norms and ceremonies or doing good to peers, respondents from countries which are mainly Christian provided the following perspective: 67.2% of respondents consider that religion is good for others (84.3% in Spain and 40.9% in Germany), 26.7% say that religion is to follow forms and religious ceremonies (53.5% in Germany and 7.7% in Slovenia) and 5.2% of respondents refused or did not know how to answer this question (World Values Survey 2014-2018).

George Barna (Barna and Hatch 2001, 181-185) states that despite the apparent interest in spirituality, irregular attendance by former regular church attendees, church tourism (moving from one church to another), and the multiplication of megachurches actually prove that church attendance has dropped. According to the World Values Survey (WVS) 2010-2014, attendance at the European level of worship shows the following: 3.2% confirm church attendance more than once a week (4.9% in Georgia and 1.1% in Estonia), 11.6% say they go to the church once a week (46% in Poland and 2.8% in Estonia), 10.8% respond that they go to church once a month (22.2% in Armenia and 3.6% in Estonia), 27.9% respond that they attend the church only on holidays (40.8% in Belarus and 13.2% in Spain), 6.9% say they go to church once a year (Estonia 16% and Spain 2.2%), 10.4 say they visit the church less than once a year (17.8% in Romania and 3.7% in Cyprus), and 28% respond that they never go to church (53.3% in Spain and 5.2% in Romania). Adding up the number of those who say they go to church once a month, once a week, or even more often, we have a total of 25.6%, and by adding up the number of those going to church only for big religious holidays once a year, less than once a year or never, we will have a total of 84% (World Values Survey 2014-2018).

Therefore, the difficulties that the Church is facing cannot be denied (Trueheart 1997), no matter who reports them (pastors or lay members) and no matter what part of the religious segment they come from (historical, Protestant or Neo-Protestant churches). Churches are losing ground at a worrying rate, particularly among the faithful categories of the religious population, and some seem to have no future. As for those who leave the churches, despite the fact that they seem to have lost their faith, they claim that this is a way to preserve it, as they were told that "taking the Church too seriously may damage spiritual health." The World Values Survey (WVS) 2010-2014 also responds to the question about the personal perception of respondents' religiosity. Of all the answers, 64.1% are considered religious persons (97.1% in Georgia and 30.9% in Estonia), 27.4 are not religious persons (55.9% in Estonia and 6.6% in Poland, 15.2%), 5.0% responded that they considered themselves atheists (13.4% in Slovenia and 0.2% in Georgia), while 3.5% did not know how to answer this question. (World Values Survey 2014 – 2018). Of course, we cannot talk about the Church as if we were looking at a sales company, because the gospel does not have to be sold. However, if people are no longer interested in what the Church has to offer, the latter cannot justify its existence. Nowadays, people confronted with chaos and confusion, are looking for the meaning of their life. Of course, the formulations of Modernism are despised because of their lack of applicability, although it cannot be said that something more consistent has taken their place. To sum up, Modernism is characterized by trust in the ability of reason and scientific discoveries to solve the problems of humanity. From a philosophical point of view, Modernism expresses itself primarily through rationalism (which questions the experience, focusing on existence) and empiricism (which affirms the conditioning of thought by experience). In fact, even this form of analyzing and selecting the most general laws of the development of nature, thinking, and society is also a trace of Modernism. The Church still operates with premises about life that were developed by Modernism. Nevertheless, the Church can once again activate its growth potential by helping those who are in search of their true identity and the unique meaning of life, by providing them with a living community of faith.

All this takes place in a context in which the interest in spirituality is increasing (Trueheart 1997), as shown by the abundance of literature published to meet this need. In the annual report released by the American Publicists Association (AAP) for 2016, it was emphasized that religious, spiritual or inspirational literature was among the best-selling, with an increase of 6.9% to 1.13 billion between 2015 and 2016 (American Publicists Association 2016). The concern for spirituality is proved also by the significant sums of money that people invest in seeking solutions to their soul issues. In the report that Nielsen BookScan presented, it is stated that Christian literature recorded a strong increase in sales of 8.9% between 2009 and 2014, especially in the books for young and non-fiction books, as an important part of the Christian books market. (Nielsen BookScan 2015). Another way to show interest for spirituality is the fact that for the Christian population the value of religion mainly resides in making life in this world meaningful. According to the same World Values Survey (WVS) 2010-2014, respondents also voiced their views on the significance of religion: to make sense in the life ever after or to give meaning to life now. 67.7% believe that religion has to fulfill life on earth (83.3% in Ukraine and 54.8% in Slovenia), 22.9% think the meaning of religion is obvious after death (28.6% in Cyprus and 11.1% in Slovenia), 1.1% believe that religion is meaningless both now and after we die, and a significant number 8.0% did not answer this question. (World Values Survey 2014-2018). Finally, people belonging to different spheres of professional activities made appeals in favor of a return to responsible spirituality. In 1992, after the signing of the Maastricht Treaty, then European Commission President Jacques Delors stressed that "It is an emergency to revive Europe's soul." The term responsible spirituality has been used to make a difference from what is now being promoted in society, a conglomerate of hermetic notions and exotic tastes, a spirit-feeding simulation, "having only a form of godliness but denying its power." (2 Timothy 3:5) "We should discuss about the management of expectations, which means many things: it means a return to religion, to the spiritual things the world seems to have forgotten. There is an abundance of things in this life - other than the acquisition of material goods ..." (Hotnews 2018).

Many have separated from the religious orientation that has accompanied them a good part of their lives. Therefore, church statistics seem deplorable, especially among traditional churches. According to the World Values Survey (WVS) 2010-2014, in terms of how they relate to the Church and organized religion, 84.2% respondents from major Christian states say that they are not members of any church, 9.6% that they are inactive members, and only 5.9% consider themselves active members. The highest percentage of non-members comes from Armenia (97.3%), Russia (93.2%), followed by Ukraine (88.1%). The highest percentage of inactive members is in Germany (34.2% %) followed by Slovenia (12.5%) and Cyprus (10.6%), while the percentage of highest active members come from Poland (15.2%) and Germany (14.1% (10.7%). (World Values Survey 2014-2018). The decrease in the number of believers among Christians is actually increased by the alarming inability to effectively and persuasively reach other categories of the population, or at least to keep in the church the practicing believers' children and young people. The reduction in the number of active worshipers affects the finances of the religious organizations, which invariably leads, on the one hand, to the impossibility of recruiting new ecclesiastical ministers and, on the other hand, to the rental of worship spaces for profane activities or even to the demolition of these buildings. Due to the worshipers' lack of interest and as a direct consequence of the financial crises, churches cross the border of exclusive destinations and take on a wide range of other destinations: cultural centers, social meeting places (libraries, restaurants, hotels) or residential establishments. For example, the Calatayud Monastery in Spain (17th century) was turned into a museum, (Environment of Calatayud 2019), the Malmaison Church in Glasgow is presented as the place "where you can sleep in a converted church" (Air France 2019), and St. Mary's Church in Dublin operates as a bar, restaurant and night club (The Church 2019). As Bruinsma (2009, 4) said, "institutionalized Christianity does not render a very encouraging picture. In many parts of the Western world, the church has become visibly marginalized. Its voice in society no longer directs; its moral contribution to national discourse is no longer a significant factor. Tomlinson seeks an answer to his dilemma when he compares the unprecedented interest in spirituality and the

"incredibly unpopular" Church. (Tomlinson 1995, 141-143). His answer is that the Church exaggeratedly systematizes its teaching as an "all you need to know from A to Z about death and eternity", which is rooted in the New Testament, but which was never presented or imposed as such at that time. "In the postmodern world, people see in the Church even more than what they see and reject in the surrounding world: hierarchy, bureaucracy, and struggle for power." (Tomlinson 1995, 141-143). On the same question about Church irrelevancy, Raines (1961, 14) offers a similar perspective, stating that one of the Church's mistakes is that it no longer aims to change culture, but it allows itself to be changed by culture, as it is concerned about its growth; that it has become people's rather than God's spokesperson, adapting itself to the environment like a chameleon, instead of challenging culture (Raines 1961, 15), to the point that the world has almost completely lost interest in what the Church has to say. "The world believes that the Church has already been domesticated and can be kept busy cultivating its own garden" (Raines 1961, 17).

Will the Church disappear?

The current religious reality convincingly speaks about the almost insurmountable difficulties that organized Christianity has to deal with. However, the fact that the concerted efforts of the Church fail to make up for its image deficit, should not lead to hasty conclusions that would permanently erase the purpose of the Church from the mind and heart of the public. This statement should not be read only as a confession of faith, as it has its own reasons. In many countries of the world, Christianity is definitely not drifting, on the contrary, it is even developing at the level of some religious groups (Mulder, Ramos, Marty 2018). Even though the impact of Christianity is disproportionate when it comes to geographic areas, evangelical Christianity is developing spectacularly in the southern hemisphere of the globe (South America, Africa, Asia) (Granberg – Michaelson 2018).

However, if the Church neglects the clear signs of danger, it isolates itself and becomes a "prisoner of the past" (Hill 1999, 11) which still functions by virtue of an inertia provided by the modernist generation, used to putting on a feast of celebration to disguise sad facts and to claiming superiority through obsolete teachings, irrelevant to the present.

Moreover, the process of migration from the developing world to the Western one has provided a great deal of oxygen to the Western Church, which for considerable periods of time "had increased" its decrease (Christianity Today 2003). Sociologists report that the migration process virtually intensifies religious experiences, no matter what their form is (Christianity Today 2018). The prosperity of certain Christian areas in North America and Europe is fueled by the evolution of global migration. Migration is influenced by a range of political, economic, social, religious or environmental factors, either in the country of origin (impulse factors) or in the country of destination (attraction factors). Practically speaking, the relatively higher level of earnings and, implicitly, living standards have a motivating role for migration decisions. The migration process (be it legal or illegal) offers the Church multiple perspectives of development by challenging the comfort zone of host Christians. If the trend continues, even the configuration of church worshippers might change. Migration can reinvigorate the local churches in the destination countries by infusing a differently defined population from a cultural point of view and by finding solutions to their stringent needs for ministry (Eurostat 2019). The way in which the 'migrants' emergencies are addressed can also change the parameters of the expression of Christian love both inside and outside the community. Christian missionary can also be reanimated through the possibilities of presenting Jesus to the population that has gone through the immigration process. A Christian friend who accompanies an emigrant in the process of adaptation gives the latter a chance to discover a healthy motivation behind the act of charity and help. Besides the influence of a Christian friend, other factors that appeal to the emigrant in the process of integration are the Bible and the integrating role played by the local Christian church (Washington Post 2015).

3. Does the Church still have a message?

The question is all the more inconvenient, as we are aware of the many facets of postmodern thinking (Rotaru 2006, 251-256). Postmodernists could not care less about religion in an organized form, while also being concerned with spirituality. Postmodernist thinking encourages the general population to create their own religious "costumes" based on their own truths that they have selected according to strictly individual criteria. What used to be accepted as a non-negotiable truth in terms of the theological foundation (The Truth), the prescribed form of worship, and the common moral standards, has now dissipated to the level of unilateral choices, based on individualism and personalized truth.

Believers are encouraged by the contextual reality to opt for Church offers, based on criteria that appeal to attractiveness, convenience, emotiveness, uniqueness, peculiarity, or plurality of offers. At the same time, many local churches try to engage responsibly in up-to-date responses given to postmodern contemporaries, admitting that this approach does not necessarily affect the basic teachings of the religious group, but on the contrary, it could improve its attractiveness. One of the premises of these churches is that since the doctrine of the church is very little known, new initiatives could address those who have been deprived of any prior contact with religious groups.

Even though the interest in studying the concept of church has oscillated throughout history, the common denominator of theologians is that dialogues about the Church must not exceed the limits imposed by the descriptions of the Old and New Testaments, which are considered the norm. Thus, in the context of the Old Testament, the Jewish prophets and the people's leaders, who had come back from the Babylonian exile (Rotaru 2015a, 188-193; 2015b, 194-199), foresaw the future as a cessation of the current reality and its replacement with the Kingdom of God. On the other hand, the life and ministry of Jesus Christ convinced His contemporaries and followers that the Kingdom of God had already started with Him. Furthermore, the New Testament reveals an eschatological meaning of the Kingdom of God, which is fundamentally different from the Jewish description - an age of peace and perfection that succeeds the appearance of the Messiah and even coexists with the still unrenewed present through the incarnation, ministry, death, and resurrection of Jesus Christ and the outpouring of the Holy Spirit.

The Christian Church is mandated to stand at the confluence of these two perspectives and to speak in favour of the saving miracle of God to all creation by moving towards the Kingdom of God. The Church is a means created and made available by God to direct the attention of lost people to the saving solution that comes from Him alone. Christ cared for the Church to be organized and, for this end, it endowed people with special administration and ministry abilities. Since the main objective of the Church was to introduce God to a drifting world, the Church received adequate training and means adapted to this mission. "From the beginning, it was God's plan to reflect His plentiful fullness to the world, through His church. The members of the Church, those who have been called out of darkness to His marvellous light, must reflect His glory. The Church is the depository of the riches of the grace of Christ and it will ultimately be the means through which the final and total manifestation of the love of God will be displayed (White 2014, 9). "The Church is not an end in itself, but is the instrument that God invented and decided to use, so that lost earthlings might have the opportunity to meet a sample of His future kingdom, offering first, from now on, the guarantee of protection and salvation." The Church is the fortress of God, His city of escape, sustained by Him in a rebellious world" (White 2014, 11). The Church was given the universal mandate to be "a channel of light for the world" (White 2014, 111). In its mission, the Church is not to be engaged in actions of guerrilla against the world, but it is to address the world in such a way that mankind is treated with kindness and richly blessed. That is why one of the images Jesus Christ used to describe the mission of the Church - the light of the world - also conveys the honor of representing Him and the duty to follow His example.

The Church is the sample of the new creation that God is both willing and able to accomplish, through people who voluntarily enter His sphere of influence. George Ladd (1974, 105) asserts that the church is created by the Kingdom of God, is a witness of this Kingdom, an instrument of the Kingdom, and the custodian of this Kingdom. In other words, the Church is called to embody the

future reality in the midst of a reality, which remains unchanged for the time being. Thus, the Church is a visible society of the people of God who is called to act as the presence of the future, the eschatological community in the world, which will be renewed through Christ (Webber 1978, 47). The Church must seek to be the company of those called to promote a radical obedience to the will of God and who are seeking to detach themselves from the fallen humanity (Fackre 1978, 171 – 172). If the Church loses sight of or deletes from its priority list its great mission of ministry and salvation it loses its "taste." "But if the salt loses its savor, how can it be made salty again? It is no longer good for anything except to be thrown out and trampled by men" (Matthew 5:13).

At the same time, according to Webber (1978, 60-61), the Church must admit to being "simul justus et peccator" ("righteous and sinful at the same time"), which is not to be understood as a process of getting used to helplessness, but as an endeavor to make the Church on earth as similar as possible to the model initiated by God. Nevertheless, since the Church naturally suffers because of the influences of the context, the Reformers, for example, fought for an ideal of the church manifested through the "ecclesia reformata semper reformanda", a thesis of the Protestant Reformation that wants to convey the conviction of the Reformers that the Church needs to be constantly analysed, to maintain the purity of teaching and life, in light of the Scripture.

Conclusions

Even if some of those born in the second half of the twentieth century would have found it easier to leave the Church rather than stick to it, we should not forget that "however weak and flawed it might seem, the Church - in a special sense - is the only object to which God gives His supreme attention. It is the stage where His grace is displayed, where He is pleased to discover His power of transformation of hearts" (White 2014, 12). The Church must become "a suitable tool used to reflect a type of spirituality, which is relevant to the contemporary world" (Drane 2012, 34), accepting that everything takes place in God's world and that He wants to use the Church as the speaking tube through which people are invited to take Him seriously. Since the Bible is not a textbook of church activities, but a map indicating the path the seeker has to follow, it has saving potential.

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Criminal Aspects Specific to Corruption Offenses

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ABSTRACT: Corruption is one of the main topics of discussion in any field and at any level, representing one of the greatest challenges of the contemporary world. This is present both in poor and developing and developed countries, and the fight to combat it has become a serious problem, especially as the phenomenon expands very rapidly, including, firstly, a few sectors, a few domains, and then the whole of society, becoming a lifestyle, a mentality, a labyrinth from which it can no longer come out. The diminution of the phenomenon is possible in a knowledge society, with individuals having an irreproachable moral conduct, based on education, built on the most durable elements of morality and consciousness which mankind has accumulated over time to the form of today of our civilization. Corruption is perceived by most segments of the population as a serious and dangerous phenomenon that undermines the structures of power and authority and violates the expectations of many people as to the subsequent evolution of social life into living standards.

KEYWORDS: corruption, crimes, economic, officials, phenomenon

Introduction

Corruption has existed since ancient times, which is by far one of the most serious and widespread behaviors of certain civil servants. This social phenomenon is a disruptive factor for democracy and the rule of law. Updating the issue is particularly necessary due to the negative impact of corruption on state democracy, social equity, justice and respect for human rights and fundamental freedoms.

The history of human society shows that criminality and corruption in all its forms have also taken place with various extensions and intensities from ancient times. As continuous processes, these phenomena are manifested today in all countries and social structures, regardless of their economic development depending on the socio-political changes and the approach of the bodies of state power.

Unlike the laws of other states in our legislation, there is no text to criminalize an offense called "corruption", but the legal literature includes this notion in a broad sense, many violations of the sphere of criminal law in respect of the service. Designed in the popular sense, corruption is the abuse of power in their own advantage. Therefore, it seeks to identify those lawyers who involve corruption offenses that is to say for unlawful profits.

Criminal aspects specific to corruption offenses

By attempting to systematize the causes and conditions which still favor the commission of crimes that affect activities of public interest or other activities regulated by the law, and in particular those of corruption, one can distinguish: economic and social causes and causes of educational and psychological nature (Dobrinou 1983, 16).

Economic and social realities - the unequal distribution of the social product, the differences between physical and intellectual work, between qualified and unskilled labor, living conditions in the urban and rural areas - are likely to create a climate favorable to the emergence of antisocial manifestations, consisting of and acts of corruption of officials (Tamaş, Antoniu, Hentea 1972, 33).

Moral, educational and psychological causes and conditions play an important role in determining and favoring corruption. Remnants of bourgeois education and skills - such as individualism, cupidity, selfishness, careerism, abuse, tendency to seize, parasitism - continue to be present both in the conscience of some citizens and in the conscience of some officials.

Representing a complex issue whose manifestations, social consequences and ways of settlement are of interest to both public opinion and the institutionalized level of social control, corruption is conceived by most honest social segments as a particularly serious and dangerous

phenomenon capable of undermining power structures, achieving economic reform, raising the standard of living of the population, and hoping for the country's evolution towards the rule of law.

In its classical sense, corruption denotes the abuse of power for personal benefit, inside or outside that institution. In line with this legal-criminal sense, the organs of the criminal justice system reduce the scope of corruption offenses only to acts and acts committed by officials during or in connection with the service. This view is also in line with the position adopted by international institutions in this field (Dobrinou 1995, 25).

Corruption begins by concealing or distorting reality to achieve certain results that cannot be achieved by promoting truth and continuing with the clientele system of positioning and promotion on criteria other than probity, competence and honor. Corruption may also be aimed at obtaining material or other advantages through "criminal activities of conspiratorial groups in order to obtain important illicit income" (Nistoreanu and Păun 2000, 228).

Corruption can take on various forms at a political, administrative and economic level, diversity that directly influences the intensity of public perception of this phenomenon:

1. **Administrative corruption** - the most widespread, which tends to be the act of a clerk claiming a reward for making an act to which he is bound by his office, until personal misappropriation of public property committed by persons in key positions of the state administration. In principle, civil servants commit circumvention of statutory public procurement regulations, favor certain enterprises or firms in distributing contracts (sometimes with a percentage of their benefit as bribes), falsification of tender documents, legal division of premises or dwellings, interventions in addition to other civil servants to overlook the violation of law, etc.

2. **Political corruption** - is manifested especially in the form of pressure and even self-indulgence on officials to determine them to make certain illegal or lawful decisions (which violate moral norms). It may seek to obtain material or other advantages. Illicit actions are mainly done in inter-relational forms, more or less complicated, which illustrate the term "crime organization" and the term "white collar crime", as American criminologist Edwin Sutherland claims, "in the general profession, the function creates the context, the occasion and sometimes even the motivation of committing the offenses, the transposition of the illicit facts into direct or indirect realization within a relational ensemble. The social position of the person, as well as his socio-economic-political engagement, impedes the realization of criminal justice" (Nistoreanu and Păun 2000, 254).

3. **Economic corruption** - comprises a very broad spectrum of "money laundering", which designates the reinvestment in licit business of money obtained from illicit business, using intricate domestic and international financial circuits, financial evasion, fraudulent bankruptcy, trafficking licensing, non-payment of customs duties and taxes, falsification of checks and the issuance of uncertified checks, the exercise of larger commercial additions, speculation and economic and commercial activities, and other such underground transactions consisting of unfair competition, smuggling of goods. Massive and unscrupulous aggression by thefts, fraudulent management, embezzlement, and other forms of "economic vandalism" by criminals through the use of abusive methods is accompanied in most cases by acts of corruption. Thus, in the productive branches of the economy, corruption encompassed the entire privatization process, especially the illegal patrimony transfers, by sub-evaluation, from state trading companies and autonomous administrations to private entrepreneurs; conditioning the delivery of goods, accepting poor quality products in exchange for material advantages consisting of amounts of money, goods or share of the business. The criminological investigation of the phenomenon of corruption has as its immediate objective the identification and explanation of the objective and subjective causes that lead to the committing of such antisocial acts and, as a final, the proposal of effective measures and programs to prevent and combat this phenomenon. There is a causal complexity of the genesis of corruption as a whole and of various concrete forms of manifestation, in the light of which not only the current criminal explosion can be explained, but also its likely evolution.

Specialists argue that this complex and universal phenomenon is always the expression of a certain socio-cultural context, so that the transformations produced in Romanian society in recent years have revealed the lack of solid moral principles and a reduced sense of responsibility to some

individuals, to destructive processes. However, most authors consider the main sources of this phenomenon: the perpetuation of poor political, economic and normative structures; increasing economic and social difficulties and increasing social and normative tensions among individuals, groups and social institutions. (Buneci, Butoi and Butoi 2002, 57).

Corruption induces a significant discrepancy between social, cultural and normative patterns and the legitimate expectations of individuals and social groups, representing an antisocial phenomenon with profound negative consequences. Undoubtedly, the main cause of the rise of corruption, as a social phenomenon, lies in the political area. Political incoherence has been greatly manifested in the adoption of laws necessary for the functioning of the rule of law and, in particular, of laws designed to ensure the proper framework for the conduct of economic life. Corruption was also encouraged by the lack of unity of political parties in the area of protection of perennial social values, the failure to apply the criterion of professionalism and competence in the occupation of civil servants seriously affecting the activity of the state administration and, implicitly, the institutions competent to detect or sanction corruption.

Another major cause of corruption at the macro-social level is also an inheritance from the old regime - generalized poverty. This gives some tolerance to this phenomenon, as well as the lack of well-defined social groups that support values opposite to corruption. Corruption is also generated and amplified by the decentralization of decisions and administrative structures, functional autonomy and economic liberalization at the level of the public institutions and economic agents, in the conditions of the lack of firmness and authority of the control bodies, as well as in the direct involvement in corruption acts and other offenses of those designated to enforce the law. Consequently, subjective causes must be sought in how individuals have perceived and assimilated information in the context of social change.

Romania's entry into the European Union on January 1, 2007 had a major impact on the country, so one of the most visible concerns was corruption, which the European Union identified as an acutely vulnerable point. In June 2007, the European Commission's Report assessed Romania's progress in corruption issues and highlighted the fact that, although the Government has successfully completed the procedures for initiating laws, action plans and programs, at the practical level there have not been felt significant changes.

The evolution of the phenomenon is in close concession with the dynamics of the whole social ensemble, constituting an indirect reflection of its deficiencies and malfunctions. Social, cultural, legal and political prevention must be resolute, uncompromising transparent and carried out in a legal framework, respecting human dignity and the presumption of innocence, under the eyes and control of civil society. The socio-cultural plan includes education and culture, the promotion of human and cultural values. Without the support of the honest man, non-governmental organizations, and trade unions to prevent corruption, this phenomenon will continue to evolve like a social cancer that will maintain and worsen society's drift. In legal and political terms, there are many punitive instruments to combat corruption in all its forms, and the promptness and efficiency of the control institutions are likely to ensure that social relationships are unfolding far from any disruptive element (Cherciu 2004, 41).

Also, combating it can only be effectively achieved by economic, political and moral recovery of society as a decisive prerequisite for ensuring that the law is respected by citizens by improving decent living measures combined with a constant concern for law enforcement criminal.

Conclusions

Defining corruption is reflected in Romanian legislation by defining distinct offenses that fall within the generic term of corruption, such as: giving and taking bribes, influencing traffic, buying influence. Bribery is not a simple participation in bribery crime, but a distinct, self-serving offense correlative with bribery (Cristian 2017, 162). The ambiguity with which the term corruption is used makes it difficult to establish a real public debate, in which most of the times a number of unclear laments can be identified. With all the diversity of definitions, the essence of corruption is determined by the use by a member of a public organization of its position in the organization or its

resources for private purposes. These acts are deliberate, and the person who gives or takes the bribe and who uses the resources of the public organization for private purposes makes them perfectly aware even though they sometimes disagree with these practices. It is especially the case of those who have to give bribes to get certain services that they should benefit from without making personal favors to members of public organizations.

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Civil-Military Coordination in Peacebuilding: The Obstacle in Somalia

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ABSTRACT: The complex nature of peacebuilding as an instrument of conflict resolution has increasingly collided the military and the civilian actors to share the same field of operation, thereby undermining the independence, impartiality and neutrality of either the military or the civilian actors. Despite the fact the military has often accentuated the need for “correspondence”, the civilian actors have conveyed concern regarding the effect of civil-military coordination on the capacity to remain independent, neutral and impartial in undertaking their main functions. This paper examines the cultural, organizational, operational and normative factors that condition the approaches of the civilian actors such as nongovernmental organizations and the military actors toward the civil-military coordination. This paper also discusses the obstacles to the (CIMIC) and offers more effective recommendations for enhancing the civil-military coordination (CIMIC) in order to achieve the economic, political and security order sought in the Somalia peacebuilding process.

KEYWORDS: Peacebuilding, Peace operation, Coordination, Obstacle, and Somalia

Introduction

Following the extraordinary, complex, and deteriorating situation which was causing the high magnitude of the civilian tragedy in Somalia, the United Nations (UNs) established a peacebuilding approach incorporating military and humanitarian actors into stages of activities aimed at restoring peace and security in Somali. This entails the coordination of the civilian and the military actors to work together in the same field and at the same time than the previous interventions. Civil-military coordination is particularly essential to the peacebuilding objective of managing conflict, saving lives, reducing suffering and improving livelihood (Guttieri 2004). However, in Somalia, the civil-military approach has always been problematic lacking relationship with high extent of confusion over their functions and identity (Pugh 2001). This paper examines the cultural organizational, operational and normative factors that condition the approaches of the civilian and military actors in the peacebuilding process in Somalia. While the paper discusses the evolution of the peacebuilding process in Somalia, the main focus of the paper is to examine the obstacles facing the CIMIC in Somalia and to consider a more effective recommendation for better coordination of the civil and military actors in Somalia. The first section of this paper discusses the evolution of peacebuilding in Somalia and the concept of civil-military coordination. The second section discusses the normative, operational, cultural and organizational differences that hinder the civilian and military actors in the peacebuilding process in Somalia. The final section offers recommendations for how to enhance civilian and military coordination and to improve the effectiveness of the peacebuilding efforts in Somalia. This study is a product of an analysis of academic literature on civil-military coordination.

Evolution of Peacebuilding in Somalia

During the Cold War era, traditional peacekeeping under chapter VI of the United Nations charter was authorized. This most predominantly integrated “imposition of neutral and lightly armed intervention troops following the cessation of armed conflict, and with the intervention and the permission of the host state where the troops are deployed to prevent the recurrence of the armed conflict, and create the atmosphere under which the underlying conflict can be addressed” (Goulding 2003; Diehl 1993; Bellamy et al. 2004). The fast rise in the ethnic strife and civil wars after the end of the Cold War and the urgent need for actions to assist the civilian populations subjected to ethnic massacre indicated the obligation of the international community to act above peacekeeping and to authorize peace enforcement mission under the chapter V11 of the United Nations charter in order to impose compliance with the international sanctions and resolutions and to “restore and maintain peace and

support diplomatic process in order to achieve a long-term political settlement” (Dept. of the Army 1994).

At the beginning of the 1990s, it was clear that the humanitarian crises were intrinsically related to peace and security problems. In the regard, United Nations Security Council Resolution 794 (UNSCR Somalia 1992), for the first time, under chapter VII of the charter of the UN authorized military intervention in Somalia in order to create a safe and secure environment for humanitarian relief activities. Following the extraordinary, complex, and deteriorating situation which was causing the high magnitude of the civilian tragedy in Somalia, the UNs established a peacebuilding approach incorporating military and humanitarian actors into stages of activities aimed at restoring peace and security in Somalia by helping in humanitarian assistance, observing ceasefire and settlement of refugees in order to contribute to the social reconciliation, economic reconstruction and rehabilitation of the vital government functions (Boutros-Ghali 1995; Jeong et al. 2006). It is in the addressing of the security challenges in Somalia that the active alliance between military and civilian humanitarian actors become necessary but on the contrary, it is also that the main strains between the military forces and civilian peacebuilding components emanate. Since the extraordinary nature of the security situation in Somalia called for the amalgamation of conventional peacekeeping roles such as observation of ceasefire, demobilization, disarmament, and supervision of elections and peace enforcement operations, peacebuilding activities always alluded to as 3rd generational peace missions that closely look like peacekeeping missions, but with the addition of something new giving that the peacebuilders contribute to rehabilitating of the worn torn state and the social structures.

Civil-Military Coordination

The term ‘civil-military coordination’ is widely taken to involve a broad range of issues spanning from control and command (the issues of political/civilian control of the military apparatus) to all forms of interplay between the military and the larger society (Lilly 2002). However, for the aim of this paper, a more limited issue is examined. The interplay between international armed forces and the humanitarian civilian sharing the field during peace operations.

According to (Mockaitis 2004), civil-military coordination involves three major tasks such as “liaison between the military contingent and all the civilian player in the field of operation, military support to the civilian environment and the civilian support to the armed troops in the peace operation.” For (Holshek and Coning 2017), civil-military coordination is intrinsically strategic effort that, despite the doctrinal *modus operandi*, is necessarily about managing interplays among different actors involved in the peace operation and controlling the metamorphosis from conflict to peace. Also, civil-military coordination is the interface and dialogue among military, police and civilian component of peace mission regarding the humanitarian, security, political, developmental, and other dimensions of the mission. This interface and dialogue can assist to achieve larger political objectives related to peacemaking, peacekeeping, conflict prevention, peace enforcement, peacebuilding and humanitarian relief in a peripheral zone. Civil-military coordination is the dialogue between humanitarian groups and the military actors for the humanitarian objectives. In a wider term, ‘civil-military co-ordination’ generally refers to the interplay between the military actors and a broader range of civilian actors involving civil society, development and human rights actors for military purposes (Metcalf et al. 2012).

The international organizations and United Nations have avoided using the terminology ‘Civil-Military Cooperation (CIMIC)’ focusing on ‘co-ordination’ instead of ‘cooperation’. For the United Nations Department of Peacekeeping Operation (UN DPKO), civil-military coordination is referred as a system of interplay involving exchange and sharing of information, negotiation, mutual support, de-confliction and planning at all stages between military components, the civilian population and humanitarian organization to actualize respective goals (UN DPKO 2002). According to the Inter-Agency Standing Committee (IASC) the main instrument for the coordination of the humanitarian relief, Civil-Military Coordination (CM Cood) is,

“the essential dialogue and interaction between civilian and military actors in humanitarian emergencies that are necessary to protect and promote humanitarian principles, avoid competition, minimize inconsistency and when appropriate pursue common goals (IASC 2004, 5)”.

The dispute in terminology represents the defensive and cautious behavior to civil-military co-operation amongst civilian actors as a result of the domineering behavior of the military actors who are authorized by their political leaders in the government (Gourlay 2003). The important factor concerning civil-military relations regardless of the title is to ensure that this interaction is coherent and complementary with clear objectives and tasks without undermining the presence or the relevance of the other (Gourlay 2003).

The Obstacle

Perceiving the potential of CIMIC for undermining the independence, impartiality and neutrality of NGOs and humanitarian agencies, the ICRC started in the early 1990s to campaign the concept of “Humanitarian space” which interprets the capacity of humanitarian organizations to act independently, impartially and neutrally in the absence of fear of threat in quest of the humanitarian imperative. This entails that the humanitarian actors will be to free help the population in need, and they are not constrained by physical or political obstacles to their task (Sida 2005, see Roggo 2002). Theoretically, the military at least becomes engaged in the humanitarian missions only in a very serious situation when the people are at risk or dying, and only the military can protect them (Sida 2005). Practically, however, the civilian actors are particularly worried about the military actors performing relief tasks as part of their approach to “capture the hearts” of the local population. The military “heart strategy” can easily cause confusion in the role of the civilian actors and the military actors in the same field of operation.

This obstacle as observed by Sedra (2004) is that while the military demonstrates the importance of “complementarity” with the civilian actors, the civilian actors have become wary of its effects on their capacity to remain independent, impartial and neutral. As peacebuilding acquires operational relevance, an increasing number of military commanders appear to accept the military actor’s growing double responsibilities; to operate as an armed force and to support humanitarian relief (Rana 2004). Civilian actors operating in a hostile peripheral zone need the military for logistics and security while the military actors need those civilian actors to handle the humanitarian relief (Guttieri 2004) However, in spite of the increasing acceptance of the widening military operation obligations, obstacles persist in the civilian-military coordination effort and this has continuously impeded the effectiveness of peacebuilding.

Cultural Difference

Different cultures have exerted a significant effect on the level of civil-military coordination, an obstacle which has been demonstrated by the previous and the current civilian personnel and by the military personnel in Somalia. In general, (Minear et al. 2000) argued that the military personnel is trained, equipped to use regulated and organize violence to accomplish their mandates. The military places a high priority on command and control, well defined lines of accountability, discipline and authority and prioritized logistics. On the contrary, the civilian agencies are decentralized and place a high value on the process. The civilian personnel perceives themselves as a peaceful individual who has committed their lives to help those people devastated by war while the military actors in most cases are troops trained for war. The military actors see the civilian personnel as peace activists thereby they underrate their relevance in the peacebuilding process. This has been demonstrated by the military actors through arrogance, chauvinistic behaviors, and the dismissal of opinions and information provided by the civilian workers. This disrespect for the civilian workers can easily damage the already weak level of coordination existing on the field of operation. These cultural differences do not contribute only to disagreeing mutual expectations, but most the times, to negative thoughts that members of these groups have for each other (Beauregard 1998). For example, in Somalia, the military anticipated the civilian

actors to support its objectives of law enforcement while the civilian actors expected the military to complement their efforts in aid delivery (Jeong 2005).

Organizational and Operational Difference

The Organizational structures of the military component and the civilian agencies are commonly polar opposites. Military forces are state servants deployed by government, this makes the military command structure a vertical and centralized with a clear line of authority moving hierarchically from top to bottom. Decisions clearly involve defining deadline and operations specific rules of engagement from the commander of the armed force to the soldiers on the ground (Rubinstein 2003; Pugh 2001). In Somalia, the military and police personnel are guided by AMISOM commander. On the contrary, the organizational structure of the civilian agencies is more diffused and horizontal which is based on consensus-approach allowing for substantial decision created in the field by the civilian workers (Jeong 2005). The civilian actors are guided by international standard and humanitarian principles. These varying organizational structures have become an obstacle to effective coordination on several grounds. For instance, because the civilian personnel and military personnel are not familiar with the other's pattern of structures, they encounter an obstacle in setting up congruent communication link and suitable decision making.

Normative Difference

According to the International Committee of Red Cross (ICRC), "measures are humanitarian if they meet the principles of independence, impartiality and neutrality. Relief measures that fail to follow these measures are not humanitarian, despite their effectiveness and benevolent intentions (VERNO Position Paper 2003). In practice, humanitarian assistance ought to reach all the people affected by war and it is targeted at reducing human suffering and at saving lives. As such, humanitarian assistance must be independent of the military, political, economic and other goals held by any actor regarding the areas where humanitarian activity is being implemented. It must be administered impartially without discrimination on the basis of gender, race, ethnicity, nationality or political orientations. It also must be neutrally provided without taking a side in any religious or political controversies (Somalia Country-Specific Civil-Military Coordination Guidelines Draft-Version 2014). By the contrary, the military is established to pursue a national political interest and to accomplish the objectives of the through the use of force. In Somalia, the coercive intervention of the military forced the civilian workers to seek protection of the peacekeepers or the local armed group. This protection may enhance the physical access to the conflict areas and protect populations, but this may compromise the humanitarian principles of independence, impartiality and neutrality when the civilian actors are associated with the military.

Conclusion and Recommendations

The above concise description shows that the relationship between the military and the civilian aid agencies is not a smooth one. Their cultural, organizational, operational and normative structures are incompatible. However, it is acceptable that peace and stability cannot be achieved through military instrument alone. The non-military instrument is deployed to support the stabilization process, and the civilian aid workers increase the operation legitimacy and boost the morale of the troops.

Effective civil-military coordination can be achieved by organizing high quality training and seminars with emphasis on discipline which can yield unity of efforts without undermining the importance of either the military or the civilian agencies in the field.

Effective leadership from both humanitarian agencies and AMISOM is essential to ensure a good relationship in the field of operation.

There is a need for a clear distinction between the roles, identities, mandates and functions of the military and the civilian on the basis of comparative advantages. The AMISOM should focus on peace and stabilization efforts while the civilian works should embark of humanitarian aid delivery.

There is a need to set up a task force or committee with the primary role of ensuring and maintain consistent and coherent civil-military coordination. Actors at all times should maintain a distinct and appropriate dress that clearly shows either civilian or military status.

The civilian workers should avoid undertaking joint operations or evaluation with AMISOM and the use of AMISOM facilities. Such practices could cause a negative perception of civilian workers as impartial actors in Somalia.

Finally, information sharing between civilian agencies and military workers should have a clear goal of improving mutual understanding of the mandates and roles. Information that might compromise the neutrality and impartiality of either actor should not be shared.

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Secondary Metabolites from Plants: The Thin Border Between Beneficial and Harmful

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ABSTRACT: The main family of phytochemical compounds derived from naturally synthesised secondary metabolites are alkaloids, terpenoids and phenolics. Recently, these compounds known also as novel chemical entities (NCE) have been used as drug precursors or templates for synthetic moieties. Also, their potential for pharmacological applications has been as well extensively investigated. However, in recent years, a serious problem worldwide has become the use of illegal drugs, where to potential of some secondary metabolites to act as bio- or a psychoactive component is often refined. Considering that, forensic analysis of secondary metabolites from plants is of the utmost importance. Moreover, great effort has been given to developing testing strategies capable of identifying and quantifying secondary metabolites from various precursors over the past few years. Chromatography is a powerful instrumental technique in the analyses of selected NCE and seems entirely to fulfil the requirements of various laboratories all over the world.

KEYWORDS: chromatography, drug precursors, entities (NCE), forensic analysis, novel chemical, secondary metabolites

Introduction

The world of plants, animals and micro-organisms represent a "reservoir of natural compounds" that offer a variety of species used today as remedies for many diseases and also provide a complex of organic chemical combinations in many parts of the world (Brusotti, Cesari, Dentamaro, Caccialanza and Massolini 2014, 218; Malutan and Popa 2007, 1).

Natural products and their derivatives used as sources for extracts or pure compounds have been a valuable source of therapeutic agents throughout history. Moreover, higher plants, as sources of medicinal compounds, have continued to play a dominant role in maintaining human health since antiquity. It is reported that over 50% of all medicines on the market are of natural origin and these natural products play an important role in drug development programs in the pharmaceutical industry (Kiruthika and Sornaraj 2011, 2025). However, the biological activity of plant species may remain largely unexplored (Brusotti, Cesari, Dentamaro, Caccialanza and Massolini 2014, 218).

Newman and Cragg (2016) report in a recent study that "natural product and/or natural product structures continue to play a highly significant role in the drug discovery and development process", so biodiversity is an unlimited source of new chemical entities, NCE), leading to the emergence of potential new drugs on the market. Also, they report 1564 new approved drugs between 1981-2014 (Figure 1). These new chemical entities (NCEs) are secondary metabolites synthesized from plants and can be classified into three main chemical groups: alkaloids, terpenoids and phenolics (Newman and Cragg 2016, 630-631, Brusotti, Cesari, Dentamaro, Caccialanza and Massolini 2014, 218).

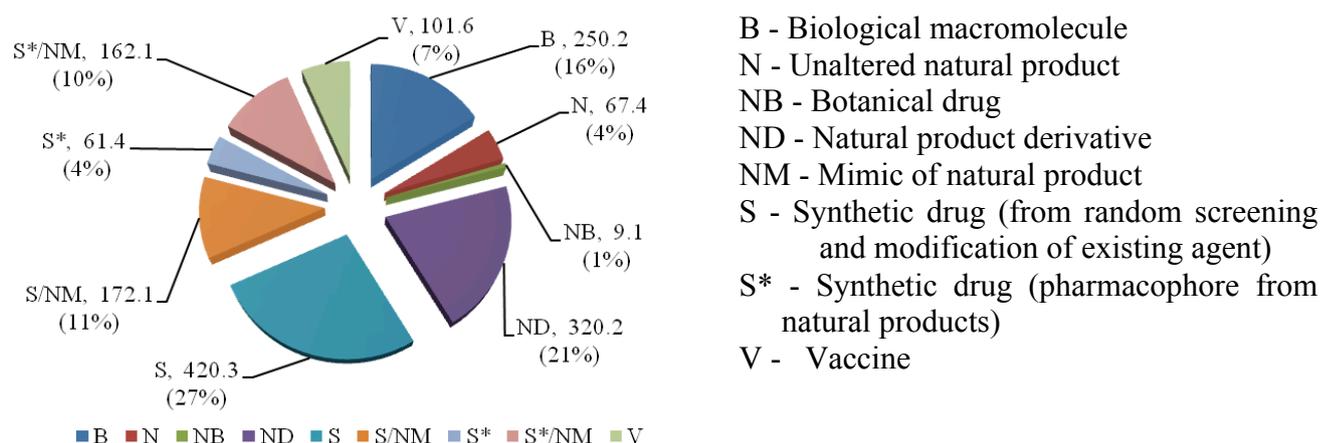


Figure 1. Drug Discovery from Natural Products as New Chemical Entities with 1564 New Approved Drugs or 100% (1981 – 2014)

Secondary herbal metabolites present chemical diversity, including many compounds, such as vitamins, nutrients, antioxidants, anti-carcinogens as antimicrobial, antifungal and antibacterial agents with an important role in medicine. Plants with a high content of antioxidants such as vitamins and phenolics are considered to be effective in preventing these diseases by reducing oxidative stress and blocking the chemical process of lipid peroxidation in biological systems. Recent studies have also indicated that the therapeutic benefits of certain raw herbal medicines have been derived from their antioxidant activities. Lately, scientists and researchers have turned their attention to raw extracts and pure active compounds isolated from plant species used in various remedies. Now it is essential to isolate, identify and characterize the new phytochemical compounds of locally grown medicinal plants commonly used by phytotherapists to treat various diseases (Razia and Sivaramakrishnan 2014, 756; Rates 2001, 603; Hossain, ALSabari, Weli and Al-Riyami 2013, 209).

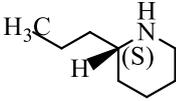
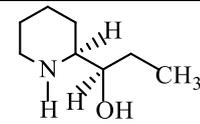
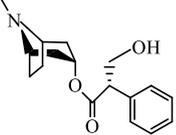
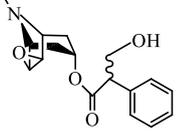
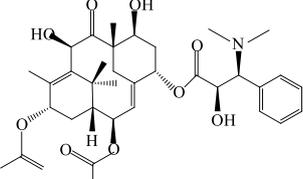
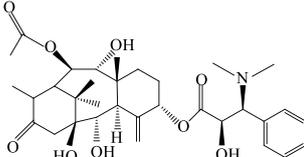
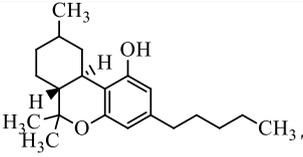
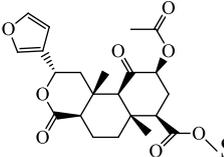
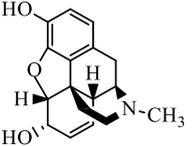
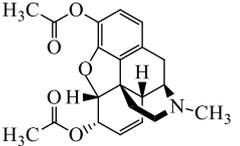
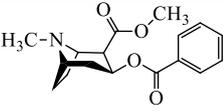
Ethnobotanical plants and associated bioactive compounds

In the past, the use of hallucinogenic substances has been associated with magic and ritual. These substances were also used as recreational drugs and consequently could lead to accommodation problems. The major plants containing hallucinogenic or psychoactive substances used in the natural form are: *Conium maculatum* (coniine and conhydrine), *Atropa belladonna* (hyoscyamine), *Hyoscyamus Niger* (hyoscyamine), *Taxus baccata* (*Taxine A* and *Taxine B*), *Cannabis sativa* (tetrahydrocannabinol), *Salvia divinorum* (Salvinorin A), *Papaver somniferum* (morphine and heroine), *Erythroxylum coca* (cocaine) (Table 1).

A number of these plants have found applications in modern medicine, either in natural form or as coordinating compounds for optimizing processes in organic synthesis chemistry. Moreover, it is known that differences in the chemical composition of the above-mentioned plant varieties may produce different effects on humans (Salim, Chin and Kinghorn 2008, 2).

For example, there are synthetic cannabinoids that were originally developed as a potential source of analgesic drugs: **Dronabinol** [(-)-*trans*- Δ^9 -tetrahydrocannabinol] sold as a drug under the name Marinol (Drug Bank n.d., Dronabinol), **Nabilone** [(6aR,10aR)-*rel*-1-hydroxy-6,6-dimethyl-3-(2-methyloctan-2-yl)-], Analgesic. Used for therapeutic purposes, chemotherapy, anorexia, treatment of AIDS patients, multiple sclerosis and the chemical composition is similar to cannabis (Drug Bank n.d., Nabilone), **Sativex (Nabiximols)**, Analgesic. It's a certified cannabinoid, used as a spray for neuropathic pain, spasms, severe bleeding. Currently, studies are being done to be used in the treatment of stage III cancer patients (Drug Bank n.d., Nabiximols).

Table 1. Plants and Specific Chemical Compounds Between Beneficial and Harmful

Compound		Scientific classification	
 Coniine	 Conhydrine	<i>Conium maculatum</i> Order: Apiales Family: Apiaceae Genus: <i>Conium</i> Species: <i>C. maculatum</i>	
 Hyoscyamine		<i>Atropa belladonna</i> Order: Solanales Family: Solanaceae Genus: <i>Atropa</i> Species: <i>A. belladonna</i>	
 Hyoscyine		<i>Hyoscyamus Niger</i> Order: Solanales Family: Solanaceae Genus: <i>Hyoscyamus</i> Species: <i>H. niger</i>	
 Taxine A	 Taxine B	<i>Taxus baccata</i> Order: Pinales Family: Taxaceae Genus: <i>Taxus</i> Species: <i>T. baccata</i>	
 Tetrahydrocannabinol		<i>Cannabis sativa</i> Order: Rosales Family: Cannabaceae Genus: <i>Cannabis</i> Species: <i>C. sativa</i>	
 Salvinorin A		<i>Salvia divinorum</i> Order: Lamiales Family: Lamiaceae Genus: <i>Salvia</i> Species: <i>S. divinorum</i>	
 Morphine	 Heroin	<i>Papaver somniferum</i> Order: Ranunculales Family: Papaveraceae Genus: <i>Papaver</i> Species: <i>P. somniferum</i>	
 Cocaine		<i>Erythroxylum coca</i> Order: Malpighiales Family: Erythroxylaceae Genus: <i>Erythroxylum</i> Species: <i>E. coca</i>	

Coniine alkaloid has been used as a sedative and for its antispasmodic properties (Binev 2013, 903). Conium is included in several herbals as *Succus conii*, described as a narcotic, analgesic, anti-aphrodisiac, and anticancer agent, despite its poisonous nature. One time, It was listed in the British Pharmacopoeia and the British Pharmaceutical Codex as sedative and antispasmodic. Because of this property it was recommended as an antidote to strychnine (Grieve 1995–2004). Moreover, it was speculated that by modifying the structure to remove some of the toxic properties (teratogenic effects) (Lopez, Cid and Bianchini 1999, 841) it could be obtained for surgical purposes a substitute for curare (Binev 2013, 896-897).

Other pharmacological applications of some important plant-derived alkaloids are: cocaine (analgesic, narcotic, local anesthetic), hyoscyamine (anti-cholinergic), morphine (analgesic), hyoscine (sedative, anti-cholinergic) (Srivastava and Srivastava 2013, 216).

Herbal mixture – “Spice” - New Chemical Drugs and unidentified compounds

The use of legal, legal and natural alternatives has become a worrying global phenomenon in recent years. The fight against the illicit drugs traffic and consumption is a really complex social national and international preoccupation (Buzatu 2012, 20). The current concern for users, parents and professionals working with people using and abusing psychoactive substances is directly related to the identification of their effects and how they can have a negative impact on the body and the mind (Carey, Drug Education Officer Substance Misuse Service 2009, 3).

The ingredients in ethno-botanical products sold have three main sources: 1) psychoactive ethnobotanic herbs, 2) chemicals used primarily for research purposes, and 3) compounds that are gelling agents used to bind certain products.

Plants with psychoactive components used in the natural form are mainly with mild action but when certain alkaloids are extracted and used further result compounds comprised in the four classes of psychoactivity: hallucinogens, stimulants, anticoagulants and aphrodisiacs.

A psychoactive substance is a drug (any substance that changes the way the body and mind feels or believes), not controlled by legal acts and documents (Misuse of Drugs Act 1977-1984, Criminal Justice (Psychoactive Substances) Act 2010), which is legal to be detained and used. Most psychoactive substances are regulated by statutory acts that make their sale, supply and consumption unlawful. Many suppliers and manufacturers sell these products as "bath salts" or "incense", a way they can avoid the law. Psychoactive substances are sold with some ingredients that are not listed. The high level of danger of these substances is a cause for concern worldwide because they can cause serious effects on human health (Buzatu 2015, 5).

For example, "K2" and "Spice" are relatively new drug classes that have emerged recently (produced since 2004 by "street chemists") on the market as alternatives to marijuana. The Internet facilitates the purchase of these available drugs, which are sold in several stores under the guise of harmless products, such as herbal blends, incense or odorants (Buzatu 2015, 7, 17). Although the labels on the package indicate "forbidden", the number of poisoned people enrolled in emergency departments has increased dramatically (European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), 2009). In Europe, there has also been an increase in interest in Spice drug use (Jack 2009). Also in Europe in 2009, some countries (Austria, Germany, France, Luxembourg, Poland, Lithuania, Sweden, England and Estonia) introduced all products containing synthetic cannabinoid compounds under the Narcotics Law, so they were no longer accessible on-line or in specialized shops. The lack of validated and standardized testing procedures as well as the endless supply of such drugs are the main causes for researchers' difficulties in fully characterizing the clinical consequences associated with the use of Spice drugs. While precise chemical composition and toxicological analyzes of Spice drugs remain to be determined, there is evidence to identify several synthetic cannabinoids as main agents responsible for adverse physical and psychoactive effects (Seely, Lapoint, Moran and Fattore 2012, 234). Chromatography is a powerful instrumental technique in the analyses of selected NCE and represents the central axis of phytochemistry and the key to obtaining pure compounds for the purpose of elucidating the chemical structure, for

pharmacological testing, or for the development of compounds with therapeutic value (Marston 2007, 2785).

In 2009, Auwärter mentions that in order to demonstrate pharmacological activity and to obtain positive blood and urine samples, two of the authors have experimented the use of ethnobotanics. The two smoked a cigarette containing 0.3 g of "Spice diamond" and then took samples of blood and urine (Auwärter, Dresen, Weinmann, Muller, Putz and Ferreiros 2009, 1). Ten minutes after consumption, the first observable effects were eye reddening, pulse increase, xerostomia, and a mood and perception impairment. The effects were maintained for at least 6 hours with a slight attenuation. Some minor effects also occurred the following day. The observations were similar to those reported on blogs by other consumers and so the conclusion was one that aimed to confirm the presence of active pharmacological compounds. Following the application of herbicidal preparations such as Spice silver, Spice gold, Spice diamond, Smoke, Sence, Skunk and Yucatan Fire, qualitative drug analysis routines was done (GC-MS, LC-MS/MS).

These analyzes did not reveal the presence of any illegal drug or known pharmaceutical ingredient. Only α -, β - and γ -tocopherol as well as a series of phytosterols have been identified (Figure 2). Three abundant signals with unknown mass spectra were identified in GC-MS analysis instead. Two compounds had the same nominal molar mass (332 amu). The third compound was identified by a Frankfurt laboratory as JWH 018, a cannabimimetic aminoalkyl indole with a 4-fold greater affinity for the CB1 receptor and a 10-fold greater affinity for the CB2 receptor relative to Δ^9 -tetrahydrocannabinol (THC). The cannabinoid CB1 receptor is mainly found in the central nervous system and CB2 in the peripheral system (Ameri 1999, 1). In the first two compounds, spectrophotometric investigations revealed phenolic chromophores. Other instrumental techniques have reached the molecular formula $C_{22}H_{36}O_2$. Compound 2 proved to be a homologue of a non-classical cannabinoid called CP 47,497 (fourth compound). Finally, it was shown that the first compound was in fact a trans-diastereomer of compound 2. Compound 4 in qualitative terms appeared to exhibit pharmacological characteristics similar to THC. In the preparations called Smoke, Skunk, besides JWH 018, high amounts of oleamide were identified. Ingestion of oleamides induces behavioral responses similar to cannabinoids (Leggett, Aspley, Beckett, D'Antona, Kendall and Kendall 2004, 260).

Compound 2 was also detected in blood samples (after consumption of Spice diamond). In these samples, 11-nor-9-carboxy- Δ^9 -THC (the major oxidative metabolite of THC) was not shown.

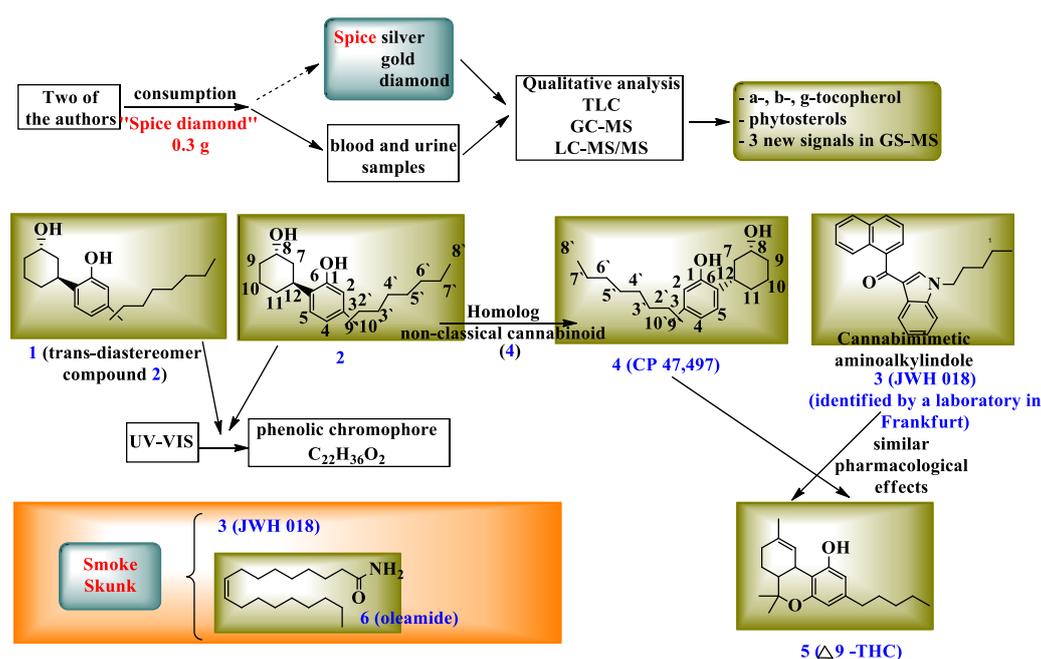


Figure 2. Experimental details to highlight some existing compounds in Herbal mixtures (Spice) (Mardare (Balusescu), Olariu and Arsene, 2017, 2016)

The final conclusion of the study by Auwärter, Dresen, Weinmann, Müller, Putz and Ferreiros 2009 is related to the fact that the chemical species identified with 2 and 3 represent strong agonist cannabinoid receptors that may be responsible for cannabis-like effects. There is currently no knowledge of the metabolite of these compounds. Some metabolites may be toxic and/or pharmacologically active. It is believed that there are hundreds of other compounds with cannabinoid receptor activity and therefore it is possible to assume that other substances will be on the market soon, substances that will cause great problems.

Conclusions

Plants have almost unlimited ability to synthesize secondary metabolites. Bioactive compounds in plants are means of potentiating drugs and can be so important for human health but can also cause toxic effects under certain conditions.

Essential plant compounds used as isolated compounds or as extracts, called the Novel Chemical Entities (NCE), offer unlimited opportunities and innovative leads for new drugs.

The use of legal drugs containing psychoactive substances (hallucinogens, stimulants, anticoagulants and aphrodisiacs) has been a worrying global phenomenon in recent years.

The recent emergence of relatively new drug classes “K2” and “Spice” as an alternative to marijuana on the market, and the continuous change in their composition is an important scientific burden for various laboratories.

It is absolutely necessary to identify the effects of drugs and how they can have a negative impact on the body and the mind.

There are lacking validated and standardized testing procedures to allow for the full characterization of drugs and the clinical consequences associated with drug use.

There are still inconsistencies in the legislative field and the incontestable evidence demonstrating the toxic nature of the abuse of these potential drugs.

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Imaginary Love in the Context of Emotional Consumption: A Levinasian perspective

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ABSTRACT: This article analyses love that emerges in dancing clubs, by integrating Emmanuel Levinas' ethics of face with sociological theories on emotional consumption. The seemingly ideal appearance of a strip dancer with which a regular customer falls in love is not a true display of her authentic self, but rather a mask, which is a product of her emotional labor, sold to increase her income. The customer develops emotional ties with this fabricated persona and desires her love in return. In a commercial context, the customer often fails to recognize her complex subjectivity and to welcome her true otherness. He exploits her emotional labor, while she manipulates his emotions for money. His love, which is predicated on an imaginary foundation, cannot sustain outside of dance clubs. A "mask" and a Levinasian "face" may share the same physical body yet have distinct personalities, and can thus be confusing. Levinas' ethics calls for our immediate responsibility in the face of the Other. However, not all appearances of the Other are authentic. Sometimes it is even part of one's job to be disguised, such as in the case of strip dancers, actors, etc. It is vital to first identify and embrace the Other's true face before engaging in a relationship which requires mutual responsibility.

KEYWORDS: face, mask, emotional labor, emotional consumption, Levinas

Introduction

Sociologist Arlie Russell Hochschild brought up the concept of "emotional labor" in her 1981 book *The Managed Heart: Commercialization of Human Feeling*. She defines emotional labor as a form of feeling or emotion management "to create a publicly observable facial and bodily display," and this labor is "sold for a wage" (Hochschild 1981, 7). This article analyses clubs where female dancers perform lap dances, which involve erotically grinding on a male customer's lap either topless or fully nude. Customers are required to keep their hands off the dancer's body during the performance. Payments are directly given to dancers, who pay about 15-20% of their income to club owners (Egan 2005, 105). In an exotic dance club, apart from dancing, dancers need to show a desirable attitude in order to make their clients feel good. This kind of emotional labor can be tiring, yet it is indispensable to attract and to maintain a clientele to ensure a stable income. Attracted by a certain dancer, some customers may come to see her performance regularly and frequently, and may even develop romantic sentiments towards her. He would want to see her outside of the club, but a dancer rarely agrees (Egan 2005, 97). When falling in love with an exotic dancer, the customer actually dedicates his own emotions to the object that he consumes. She then replies with feigned emotions through emotional labor. Thence emerges an affective relation between the consumer and the service provider, or what we call "emotional consumption" (Egan 2005, 91).

French philosopher Emmanuel Levinas' ethics about face and the Other was developed under the background of World War II. The unprecedented crisis facing the human race made him rethink the western tradition of totalitarianism, which emphasizes uniformity (Arendt 1976, 755). The totalitarian logic encourages people to assimilate the Other and to eliminate differences. Levinas, on the contrary, proposes welcoming and embracing the Other in interpersonal encounters. In this article, I will analyze the sentimental connections between dancers and their regulars, discuss the reasons why their relations cannot sustain, and point out a few limitations of Levinas' theory in explaining interpersonal relationships.

Same face, different visages

For Levinas, the French word *visage* means the way in which the Other presents himself, beyond the idea of the Other in me (Lévinas 1971, 41). A visage "brings a notion of truth which is not the unveiling of an impersonal Neutral, but an expression" (Lévinas 1971, 41). When we encounter someone face-to-

face, the first question that we ask ourselves, should not be an epistemological one about how to get to know and understand the Other, but rather an ethical one, the one about how to treat the Other. In fact, the absolute otherness of the Other lies beyond our cognition, and can never be fully grasped. However, is it possible to consider the *how* question, before knowing some basics about the *what* question?

In most circumstances, we can tell another person's feelings by looking at his or her facial expressions. We can tell that a waitress is being arrogant towards a customer from her scornful looks. If a waitress controls her temper and puts on a polite smile when dealing with a demanding customer, we know that she makes an effort to perform emotional labor. We would praise her for being professional. In some other situations, however, an observer may fail to notice traces of emotional labor. For example, very skillful actors can lure the audience into believing that he is not acting, but is really being himself in a movie. Children sometimes may even become angry when they meet an actor who once played a bad guy in a TV series that they saw if they mistake the person in real life for the character he played on TV. If we consider the fictitious world in the movie as an independent world, the corporeal face of an actor represents the visage of a character within the movie. Characters are fictitious for the audience outside the movie-world but are real vis-à-vis each other in the movie-world itself. The role in the movie-world and the person in the real world share the same bodily face, but everything behind it is different. When interpreting the fictitious character, the actor lent his corporeal face to this character. It's almost like creating a twin, who has distinct experiences, culture, habits, etc. Two visages, although not at the same time, are incarnated in the same face, one from the made-up world, one from the real world. To distinguish a visage result from emotional labor from authentic visages, we can name the former "mask visage". Normally, adult audience is aware that there is a fourth wall which separates the two worlds, and won't confuse the role with the actor himself as children might do. A fourth wall is an "imaginary wall the audience looks through to hear and to see events" (Bell 2008, 37).

In an exotic dance club, dancers' performance includes both dances as well as emotional services. The countenance that they display does not necessarily represent what they really think or how they really feel about a customer. Their job, like other performing arts, requires them to embody a different personality. At work, a dancer's mask visage represents a made-up persona that only exists in the club, which is designed to accommodate their customers' needs for an ideal female personage. If a waitress who controls her temper at work is considered professional, an exotic dancer who plays the role of a sexy and sweet girl also performs her job duties, thus is also professional. As a product of her emotional labor, her mask visage is objectified and is alienated from herself in a Marxist sense.

Unlike in front of a silver screen or in a theater, settings of exotic dance clubs deliberately allow performers to have direct physical contacts with their clients. Physical boundaries between the dancers and the clients are almost non-existent, as dancers can use various body parts to grind against the customers' body. In addition, one-to-one conversations facilitate emotional exchange and help create an atmosphere of intimacy. As a result, the fourth wall that separates the performers from the audience is not as obvious as in a theater, the boundary line is more obscure. Some men may forget that the dancer on their laps is actually in a different world separated by the fourth wall, despite the fact that they are physically touched. What truly connects her emotional labor with a customer is not their physical contacts nor their emotional bonds, but rather an exchange of labor and money. The social relations between them, as a matter of fact, are "material relations between persons and social relations between things" (Marx 2008, 47). If a customer falls in love with a mask visage without noticing the commodified context and figuring out what's behind the mask, his story is doomed to tragedy.

It is worth mentioning that the settings in an exotic dance club are very different from the Parisian striptease clubs described by Roland Barthes in his book *Mythologies*. Unlike lap dance, French striptease has been given a "pent-bourgeois status". It is performed on stage fair and square, such as in *Moulin Rouge*. It is a type of honorable sports which is entitled to "rejoin the world of the public." Performers can pursue a career in this field and are "socially situated." Even the dance itself is "in no way an erotic element", but rather a "last barrier consisting of ritual gestures which

have been seen a thousand times". The dance "acts on movements as a cosmetic", and actually "hides nudity" (Barthes 1957, 137-140). In contrast, an exotic dance club remains a place restricted for intimate lap dances that are intended to be titillating.

Imaginary love towards mask visages

Sociologist R. Danielle Egan once conducted a participant observation in an exotic dance club while working as a dancer there. She noticed that exotic dancers exerted more emotional efforts to keep their regular customers compared to other customers. For instance, she would frequently discuss daily life and work problems with regulars in the intervals of erotic dances (Egan 2005, 88). Her kind words and friendly attitude make him feel that he is attractive and unique. He gets the impression that he is "worth being listened to regardless of the money that he pays" (Egan 2003, 94), and that she provides him something that he cannot get elsewhere (Egan 2003, 117). We may wonder, do dancers *really* enjoy their relationships with their regulars? This is something that regulars are also eager to know. In an interview with the sociologist, one dancer admitted that sometimes she really enjoys the conversations, while sometimes she just shakes her head and smiles. She said, "What the hell I am going to do, tell them they are assholes?" (Egan 2005, 101). In another article discussing relationships between strip dancers and their regulars, the author noticed that some dancers may be excited when seeing a regular, and prefers to stay with him in the VIP room than messing with the crowd (Frank 1998, 183). Whether they really enjoy it or not, dancers at least always act *as if* they do. They are well aware that the customers want the "real thing" or, to put it differently, they long for the authenticity of the dancers' emotions. In response to this customer demand, dancers even developed a set of strategies of professional interactions in the club (Rambo and Ellis 1989, 217). They offer customers "feigned authenticity" to make them believe that they are true to them (Egan 2005, 89).

How do we understand the emotions that regulars develop for a certain dancer? Regulars themselves describe their feelings for their beloved dancers as "real" emotions, and "thus they were in 'relationships' as opposed to commodified exchanges." Yet they are still worried about whether they are nothing more than "a customer" for the dancer (Egan 2005, 98). They "want love in an impossible context, and return repeatedly to a scene that will always cause them pain". Therefore, it seems plausible that these regulars are masochists, as Egan points out in her article (Egan 2005, 93). I would argue, however, that regulars are not masochist because they do not *enjoy* being in pain in their relationships. Masochist, as defined in the Merriam-Webster dictionary, is "a person who derives sexual gratification from being subjected to physical pain or humiliation," or "a person who takes pleasure in pain and suffering" (Merriam-Webster 2019). Admittedly, regulars do feel pain when they cannot be certain about the authenticity of their beloved dancer. But they in no way take pleasure in it. On the contrary, all that they are looking for are signs of hope, gestures that indicate that they can aspire a happy life with their favorite dancer. They keep coming back to seek confirmations, not torture. They long to be saved from uncertainty. In order to keep a stable resource of income, dancers keep offering regulars what they need by pretending that they are really interested in him. Although dancers refuse to go on a date with their regulars, they may go as far as giving him a cell phone number, and spend time doing "customer-relationship management" over the phone outside of their working hours (Egan 2005, 102). Regulars always continuously demand more to further test dancers' authenticity, for instance, by threatening her to "stop coming to the club altogether if dancers do not see them outside the club" (Egan 2005, 102). "Reassurance is a ritualized interaction that takes places constantly in the relations between regular and dancer" (Egan 2005, 102). If the demand becomes too much to handle, the dancer will eventually opt to abandon the regular. Then the regular would move to another dancer or really leaves the club for good (Egan 2005, 102). Without a masochist tendency, he doesn't come back eternally for the purpose of being hurt, he comes back only to reassure that he is being loved. Because of that, regulars are different from masochists.

From a Marxist perspective, the regular's love is a kind of commodity fetishism, which outlines social relations in commodified contexts as relationships between commodity and money

as opposed to real interpersonal relationships (Marx 2008, 50). Regular is observed to fetishize the commodified mask visage produced by dancer's emotional labor (Egan 2005, 88). Along with the fetishization of dancer's emotional labor comes the commodification and fetishization of the subject. "In paying money, men are not only buying a commodity but putting themselves into the commodity too". Exotic dance club offers consumers a setting dissimilar from mundane life. Therein they are permitted to behave differently than in their daily lives. Customers are "paying to become one other," and "seeks to be relieved of his everyday persona (Allison 2009, 21). Therefore, commodification and fetishization happen on both dancers and customers.

Besides the fact that dancer's mask visage appears attractive, a regular customer also projects his subjective imagination upon this figure. He fantasizes her as sexy, feminine, agreeable, sweet, empathetic, etc. This is the image of a typical ideal partner in a phallogentric masculine culture. On the one hand, regular's object of love is an unreal mask visage; on the other hand, this mask visage is further idealized with his own imagination. I would call this mirage-like love "imaginary love." The term "imaginary love" comes from Xavier Dolan's 2010 movie *Les Amours Imaginaires*, whose official English translation is *Heartbeats*. Jacques Lacan explained love as an imaginary passion: the beloved is not a real other but is something created out of one's own figure. In his own words, "*I love you, but, because inexplicably I love you in something more than you—the object petit a—I mutilate you*" (Lacan 2004, 267, italic in the original). The object *petit a*, or small a, differentiates the object from *Autre* (Other) or *grand Autre* (big Other) (Lacan 2004, 282). It is not the *self* of the Other, but something else. And the gap between the two can never be crossed (Lacan 2004, 270). Furthermore, the imagined other is, in fact, an idealized self. Hence, this love is *narcissistic*. Additionally, the person who loves does not only love the idealized figure but also desires a return of love. Therefore, this love is *autoerotic* (Demandante 2014, 109), viz. the person wants to be a loveable object of that idealized self. What regulars mean by "I love you" is "I want you to love me" (Egan 2005, 97). Through language, his love is transformed into "a demand for love" (Demandante 2014, 111).

Regulars' feelings for the dancers share certain characteristics with what Levinas calls "metaphysical desire." Metaphysical desire is a desire for something beyond all that can simply fill it (Lévinas 1971, 22). It goes "towards something else entirely, towards the absolute other" (Lévinas 1971, 21). Regulars think they can start a good life together with a dancer, while the true person behind the mask visage is unknown to them. The emerged desire is one-directional since dancers actually don't want to go on a date with a customer. They come up with various reasons to decline invitations to meet outside of the club (Egan 2005, 102). As Levinas points out, love, in general, is "considered as the satisfaction of a sublime hunger;" if this is possible, "it is because most of our desires are not pure and neither is the love" (Lévinas 1971, 22)

Despite the above-mentioned similarities with metaphysical desire, his desire is rather what Levinas would call a "need". Levinas distinguished the metaphysical desire and need in his book *Totality and Infinity*: "In need, I can bite the real and satisfy myself by assimilating the other. In Desire, there's no bite into being, no satiety" (Lévinas 1971, 21). In other words, need has a concrete object, as while the object of metaphysical desire is untouchable. A regular customer desires a dancer, both her body and her love. The customer is not likely to grasp the absolute otherness of the dancer, yet ideally, he would like to be able to permeate into the dancer, assimilate her into his own life. Therefore, it is fair to say that his love is a need in a Levinasian sense.

As Levinas wrote, when somebody needs something, he or she "convert(s) this other into the same by labor" (Lévinas 1971, 121). The customer's need pushes him to attempt to take her into his own life. In search of happiness, he continuously goes back to the club to fill his need like filling a void. For Levinas, happiness is "not made up of an absence of needs, but of the satisfaction of all the needs" (Lévinas 1971, 119). Unlike desire, "need is susceptible to satisfaction" (Lévinas 1971, 118), viz. needs can be satisfied, but desire cannot be so. Dancers know very well how to make customers feel happy. They simply offer him carefully feigned authenticity to fulfill his needs, just like the way people satisfy those who are hungry with a lot of food. Corey Beals mentioned that

Levinas' notion of love is to divide it into "desire" and "need" (Beals 2007, 3). In a stricter sense, if the regular's needs are fillable by concrete things, they are neither a pure desire nor pure love.

Assimilation of mask visage: a destined failure

As discussed earlier, the customer's love is based on need. This love is "eros" (ἔρως), not "agape" (ἀγάπη). For Levinas, the latter is unconditional, while the former is "cruel, egoistic, and lustful" (Casey 2010, 23). In addition, eros has a unifying power and is accountable for "bringing together things, individuals and entities" (Demandante 2014, 105). This explains why a regular, motivated by eros, is not satisfied with mere imaginations. Instead, he wants to realize his fantasies in real life. Levinas acknowledged that "labor" is necessary when someone converts the beloved other into oneself (Lévinas 1971, 121). When a customer becomes attached to a dancer, he persists in asking her out, and constantly makes an effort to make his wish come true.

The regular thinks that the dancer can accept everything about him in daily life, just like how she tolerant she is in the dance club. However, her tolerance is part of her mask visage at work. On the other hand, the customer wouldn't be able to accept every aspect of her in real life neither. As a dancer comments, "they think I look like this all the time. If they saw me in the morning before a cigarette and coffee, trust me, things would change" (Egan 2005, 101). Her mask visage hides too many sides of her subjectivity that the customer has no clue about. Outside of the lieu of commodity exchange, the dancer, like any other person, would have her own demands waiting to be fulfilled by her partner. She would become a demanding wife, just like the regular's wife that he often complains about. His willingness to be together with the dancer would eventually diminish if she were to show him her authentic visage.

Limited to the context of commodity exchange, a regular can only interpret the dancer using traces of her mask visage at work. However, this is not enough to fully understand someone. "If we try to understand someone from his work, he more overheard than understood. His life and his work mask him" (Lévinas 1971, 194). *Who* someone is cannot be represented by *what* someone is (professionally, for example) (Lévinas 1971, 193). Everything related to the dancer's professional life hides who the person really is. The physique of her sexy female body itself already constitutes a basic sign, as Roland Barthes would put it (Barthes 1957, 16), and signs need to be interpreted (Lévinas 1971, 194). Unlike in uncommodified contexts, the fact that a woman who is performing erotic dances in a club openly displays her nicely sculpted body doesn't mean that she has sexual interests in her clients. This is a sign of a deliberately designed commodity but not of any true intentions. As we can see, both her physical and emotional masks hinder the customer to fully understand who she really is. Under this circumstance, in a Hegelian sense, the regular would not be able to recognize (*anerkennen*) and to love the dancer's complexity and multiple identities (Iser 2013).

As mentioned earlier, regular's love is a demand of love. Levinas sees nothing wrong in wanting one's beloved to love him or her in return. Not only it is normal, but one loves fully "only if others love me". He further explains that this is "not because I need the recognition of Others, but because my voluptuosity is delighted by his voluptuosity" (Lévinas 1971, 298). What is problematic is not his demand, but rather his ignorance of the complexity of the dancer's visage. The faked visage says "I'm fond of you"; while the authentic one is not able to offer any return of love. The regular look for love in someone who acts *as if* she loves him, but doesn't really love him. His pursuit is destined to fail.

It is noticeable that normal couples can also experience attitude and behavior changes in a relationship. People tend to show a better image of themselves when they first start dating. As time goes by and the relationship stabilizes, they would become more relaxed, and start to unveil their true self. It's common to experience disappointment when the other is no longer as nice as before. The process is rather gradual among couples who do not find themselves in a commodified condition, and it happens rather naturally. In comparison, the rupture between a dancer's mask visage and authentic visage would happen in a more sudden manner, if they go out of the

commodified context. It is like abruptly flicking a card with two sides. Therefore, even if he were to get a chance to date a dancer in real life, his love would unlikely to survive the sudden shock.

Discussions and conclusions

In daily interactions, authenticity, meaning being open to him or herself and being transparent to other persons, is “a precondition to enter dialogue” (Schmid 2001, 271). Danish philosopher Søren Kierkegaard wrote in his book *Either/Or*, “The great is not to be this or that, but to be oneself – this can every man do, when he wants it” (Kierkegaard 1843, 184). Nevertheless, there are countless reasons why people hide his or her genuine self. For example, some feel vulnerable when exposing themselves to others, and prefer to avoid potential criticism; others are not confident enough to fully accept him or her true self. In the case of exotic dancers, they manage their true feelings through emotional labor to receive economic compensation.

Customers pay for the dancers’ emotional labor, and they do enjoy being well treated by nice girls like the dancers. “If jouissance is the very eddy of the Same, it is not ignorance of the other, but its exploitation” (Lévinas 1971, 119). In this sense, the customer exploits the dancer for his own pleasure. On the other hand, the dancers purposely continue to fake and to keep him hooked in order to maintain the regular’s attachment to her. His efforts to pursue an ideal lover, as well as his emotions, are all manipulated by the dancer to earn more money from him. Therefore, the dancers are also exploiting the regulars. Exploitation goes both ways.

Although the persona that the customer embodies when he comes into an exotic dance club is not totally the same as how he is in everyday life, the psychological elation and the pain that he feels are claimed to be real (Egan 2005, 98). He might be disguised in some aspects, but his emotions remain genuine. It is like a situation in which someone goes to a party undisguised, only to find out that it is, in fact, a masquerade where everybody else wears a mask. The customer is emotionally hurt when the relationship with his favorite dancer fails, but she isn’t, as she did not build any authentic feeling as he did.

According to Levinas, I should welcome the visage of the other, and “expose myself to the interrogation of the Other”. “And this urgency of the response, acuteness of the present, engenders me for responsibility” (Lévinas 1971, 194). Before assuming responsibility, however, it is desirable to first unravel *what* one is facing. Levinas didn’t distinguish mask visage and authentic visage, nor did he discuss their respective relationships with the corporeal body. As shown in the case of regulars’ imaginary love, the epistemological question about *whom* we are dealing with remains nevertheless important when entering into an interpersonal relation. Otherwise, one might suffer unwanted surprises as the mask visage of the other fades away and the authentic visage appears. Disappointed by the reality, one might fail to continue to carry out the responsibility that one previously undertook.

Levinas’ ethics focuses on intersubjective relations (Bergo 2017), while strictly speaking, the relationship between a lap dancer and a regular customer doesn’t fall into this category. In their relationship, the dancer’s subjectivity is hidden and disguised; the customer as a subject is also fetishized and is different from everyday life. In our daily encounters, how often is subjectivity fully exposed without being hidden or repressed? In professional contexts, for example, it is not uncommon to put emotional efforts into one’s work, even in situations where there is no immediate monetary reward. For instance, a teacher often experiences situations where he or she needs to restrain anger or other emotions when facing his or her students. It’s simple yet difficult to be oneself, otherwise, it wouldn’t be considered “great” as Kierkegaard pointed out. The extent to which subjectivity is exposed in daily encounters thus sets limitations for the application of Levinasian ethics.

Further research questions can be investigated to elaborate on related issues. For instance, whether showing one’s authentic visage in all circumstances should be a Kantian categorical imperative? If so, it would save many efforts in interpersonal communications, as we would no longer need to distinguish counterfeits from the authentic. But what about professions which require emotional labor? Without disguising one’s authentic visage, performing arts would be impossible.

Also, if people all let out their emotions freely without any self-control, without anything to “bridle men’s ambition, avarice, anger, and other passions,” our society might consequently fall back into the state of nature, or a war of “everyone against everyone”, as Thomas Hobbes described in *Leviathan* (Hobbes 1997, 103). If being oneself is not a widely applicable rule in society, then questions such as when we should put on what kind of visage, how to distinguish mask and authentic visages, when we can start to assume responsibilities towards others, etc., are all examples of topics worthy of being studied.

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Legal Regime of the Right of Superficies in Romania

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ABSTRACT: In Romanian law, the right of superficies has not known a legal regulation before passing the Law no 287/2009 on Civil Code, this one being acknowledged only by way of doctrine and jurisprudence. The right of superficies consists in the right of ownership which a person has over the construction from the land belonging to another one. As one will notice from our study, in case of the right of superficies, two categories of rights overlap, as we the Romanian courts of law have also acknowledged' namely: on the one hand, the constructor's right of ownership over the construction and his right of use over the land on which the construction is placed; on the other hand, the right of the owner of the land on which the construction is placed to claim from the constructor to use the land on which the construction is found, according to the destination to which it is forced to pay also, if so agreed, a proper compensation for the use of that land. Therefore, the right of superficies is a beneficial right of the right of ownership of the land owner on which the construction is built by detaching from the legal content thereof of the attributes of possession and use, which are afterwards awarded to the constructor.

KEYWORDS: Right of superficies, real right, right of ownership, beneficial right, construction, land, owner, constructor

Introduction

Even though the private property right is the only right in rem including all three known attributes (*possession, use and disposal*) under certain circumstances, *some of these attributes might belong to other parties*, this separation thus generating the *distinct non-ancillary rights in rem*. These non-ancillary rights in rem born pursuant to the separation of the attributes of the private property right are referred to as *dismemberments of the ownership rights* (Boroi, Anghelescu and Nazat 2013, 165). It should be highlighted that these dismemberments do *not cancel* the private property right, but, instead, they *simply limit its attributes*, the owner being deprived of some of them.

In the Romanian law, private property dismemberments are regulated in Title III (*Dismemberments of the property rights*), Book III (*On assets*), art. 693-772 of the Civil Code (Law no 287/2009 on the Civil Code was published with the Official Gazette of Romania, Part I no 511 of 24 July 2009) and they are: the superficies right; the usufruct right; the right of use; the right of occupation and the easement right. Pursuant to the review of the provisions in art. 136 (4) of the Constitution of Romania, according to which, *public property rights are unalienable*, it follows that the dismemberments of the property rights are *incompatible* with the public property right (the Constitution was adopted during the meeting of the Constituent Assembly of 21 November 1991, it was published with the Official Gazette of Romania, Part I no 233 of 21 November 1991 and it came into force following its approval by the national referendum of 8 December 1991. It was reviewed and republished with the Official Gazette of Romania, Part I, no 767 of 31 October 2003).

Finally, it should be mentioned that, as actually also stipulated in the Romanian legal doctrine (Boroi et al. 2017, 339), other dismemberments of the property right are not possible through the will of the parties, because rights in rem are exhaustively stipulated under the law and, by way of consequence, the parties are not entitled to assign the right in rem feature to another patrimony (debt) right through their will expressed in a legal document.

Notion and forms of the superficies right

The superficies right was not legally regulated prior to the approval of the Law no 287/2009 on the Civil Code, being only acknowledged in the doctrine and case-law (The High Court of Cassation and Justice, 2nd Civil Division, Civil Decision no. 616 of 29 March 2016).

According to art. 693 (1) of the Civil Code, the superficies is "the right to hold or erect a construction on another person's land, on or underground the respective plot of land, over which the

superficiary acquires a right of use” and it consist of “*the property right that a person holds over the construction built on another party’s plot of land*” (Chelaru 2013, 1, 49-59; Rădulescu 2013, 1, 147-160).

Pursuant to the reading of art. 702 of the Civil Code, it follows that the scope of superficieses also covers “plantations, as well as other autonomous durable works”. The legislator has not defined the notion of autonomous works in the field, but a definition is, however, available in art. 578 of the Civil Code, in the field of artificial real estate accession where it is stated that “autonomous works are constructions, plantations and any other individual works performed on a property” (Sferdian 2014, 4, 33-41).

In the Romanian doctrine, superficies is defined as “*the real estate right of temporary nature, on the basis whereof a person, referred to as superficiesary, acquires the right of use over a plot of land belonging to another party, referred to as the bare owner, hosting a construction, crop or other work over which the superficiesary acquires the ownership title or the right to erect or generate the same assets on the plot of land acquired for use, which continues to be the bare owner’s property*” (Bîrsan 2017, 259).

The superficieses right is of two types:

- *principal form* (complete, full) of the superficieses right, which supposes that the superficiesary acquires the property right over the construction, the crop or of a different work located on the other party’s plot of land;
- *secondary form* (incomplete, incipient) of the superficieses right, which consists of the superficiesary’s right to build, plant or erect a work on the plot of land owned by another party (Boroi, Anghelescu and Nazat 2013, 168; Stoica 2017, 260).

Legal features of the superficieses right

The superficieses right has the following legal features:

- *it is a real property right*, a feature that derives from the very provisions of art. 693 (1) of the Civil Code, according to which the superficieses right, both in its main, and in its secondary right, as a principal right, may only be established with regards to real estate assets. If in its secondary form, the subject of the superficieses is represented by the plot of land, as the constructions, plantations or other works are developed on or underground the respective plot of land, the superficieses right is supplemented by the superficiesary’s property right over all the developed real estate assets. Since it is a right in rem, the courts of law have maintained that the superficieses right is not extinguished by non-use, it is apparent and continuous, granting to the title holder the possession, use and disposal attributes. (Iași Court of Appeals, Civil Decision no 496 of 25 October 2004; Vaslui District Court, Civil Decision no 905/A of 01 July 2015);
- *it is a temporary right*, a feature that is stipulated in art. 694 of the Civil Code, according to which “The superficieses right may be established over a period of time of no more than 99 years. Upon the expiry of this term, the superficieses right may be renewed”. The parties may agree upon a period of time below 99 years, and in case the term set between the parties in the settlement deed exceeds 99 years, the superficieses right shall be reduced to 99 years. In case the parties have not expressly agreed on a term and no proof can be produced as to the existence of such a term, the duration of this right in rem is presumed to be of 99 years;
- *it is a right that is not governed by extinctive prescription*, since, according to art. 696 (2) of the Civil Code, “the right to initiate proceedings is not subject to prescription”. Confessory pleading relying on the superficieses right may be lodged, according to para (1) of the same article, against any person that prevents the exerting of the right, including the owner of the plot of land.
- *it may not cease by way of marital property division*, because the superficiesary’s ownership title and the plot of land’s owner’s right are not in an undivided condition, but they are, instead, two distinct rights (Boroi, Anghelescu and Nazat 2013, 169).

Establishment of the superficies right

As also appreciated by the courts of law, the establishment of the superficies right requires, firstly, the production of proof as to the ownership title over the construction and, secondly, either the existence of a legal provision, or a covenant concluded by and between the superficiary and the owner of the plot of land. (Mangalia Law Court, Civil Decision no 905 of 22 May 2014).

Pursuant to art. 693(2) of thesis I of the Civil Code, the superficies right may be acquired via *legal acts*, via *usucaption and through other means regulated under the law*. In this respect, our law courts have shown that the superficies right is not acquired by the mere owning or erection of constructions on another party's land, respectively that it may only be acquired on the basis of *atitle*, by *usucaption* or *ex lege* (Braşov Court of Appeals, Civil Decision 83/A of 25 January 2016; Mangalia Law Court, Civil Decision no 905 of 22 May 2014).

It should be mentioned that, according to the provisions in art. 693 (2) thesis II of the Civil Code, in all cases of establishment of the superficies right, the special real estate register provisions shall apply.

In the case of the establishment of the superficies right on the basis of a legal act, it may be a *covenant or by will*. It should be highlighted that in all cases of establishment of the superficies right by *covenant*, whether onerously or in exchange for a fee, the authenticated form is required, under the sanction of full nullity, because, since it is a real estate right, it must be entered with the real estate register, which means that the provisions in art. 1244 of the Civil Code on the form required for the entry with the real estate register apply. It should be retained that upon the establishment of the superficies right, the consensualism rules apply and the absence of the administrative building permit is of no relevance in respect to the birth of the superficies right (Perju 2006, 11, 234).

As already mentioned, *usucaption* is an alternative manner of acquiring the superficies right [art. 693 (2) thesis I of the Civil Code]. Nonetheless, even though the legal doctrine (Bîrsan 2017, 260-261) mentions that the acquiring of superficies by usucaption is "*rather a theoretical matter*", it may be achieved through the application of the provisions in art. 930-934 of the Civil Code, concerning extra-tabular usucaption and tabular usucaption, provided that the title holder behaves as a superficiary, and not as the owner of the land.

According to the provisions in art. 693 of the Civil Code, the superficies right may also be acquired *through other means regulated under the law*. According to opinions expressed in the specialty doctrine (Stoica 2017, 381; Florea 2011, 191), such a manner may be encountered in the *family relations*. For instance, such a manner of acquiring the superficies right may operate in the case of spouses who, during marriage and subject to the regime of legal or conventional communion, develop a construction, crop or work on the property belonging to one of them. In this case, the spouse who is not the owner of the plot of land acquires the right of joint property over the construction and the right of use over the plot of land. (Bârlad Law Court, Civil Decision no 357 of 15 February 2016). In practice, it has also been accepted that the superficies right also arises as part of the family relations in case parents allow their children to erect constructions on the plots of land owned by the former. (Bârlad Law Court, Civil Decision no 357 of 15 February 2016).

It should further be mentioned that, as also appreciated by the law courts, the owner's mere consent to the erection of a building is not stipulated under the law as means for acquiring the superficies right. (Câmpulung Moldovenesc Law Court, Civil Decision no 588 of 24 April 2015).

Finally, as also maintained by the High Court of Cassation and Justice, the in case the ownership title over the land belonging to a person overlaps with the ownership title over the construction, belonging to another person, this does not give birth, as such, to a superficies right, in the absence of a legal act or fact establishing it or of a legal provision grounding it. Thus, the acknowledgement of the existence of the superficies right to the benefit of the tenant of the plot of land is illegal in the absence of the legal act, respectively of an authenticated covenant, having as subject the birth of this title and the establishment of the extent thereof as dismemberment of the property right over the land belonging to the tenant (High Court of Cassation and Justice, 2nd Civil Division, Civil Decision no 4127 of 22 November 2013).

Exercising the superficies right

Art. 695 of the Civil Code, under the marginal title “*Scope and exercise of the superficies right*”, comprises several provisions regarding the exercise of the superficies right. Thus, the first part of paragraph (1) of the aforementioned article regulates the *principle of party autonomy*, the text stipulating that “the superficies right is exerted within the limits and subject to the provisions of the establishment act”. In other words, in case the superficies right is established on the basis of a legal act, considering and taking into account the principle of the freedom of will of the parties upon the conclusion of civil legal acts, they may set the limits and the conditions for exerting the superficies right under the establishment deed.

With regards to the delimitation of the land surface area subjected to the superficies right, in the last part of the aforementioned article it is stipulated that “unless stipulated otherwise, the exercise of the superficies right is delimited by the land surface area onto which the construction is to be built and by the one required for the operation of the construction or, as applicable, by the relevant land surface and by the one required for the operation of the erected building” (Birsan 2017, 261).

As stipulated in art. 695 (2) of the Civil Code, in case the construction, the crop or a different work were already present on or underneath the plot of land upon the establishment of the superficies right, unless stipulated otherwise, the holder of the superficies title is not entitled to alter the structure of the construction. Nonetheless, it is entitled to demolish it, subject to the obligation to rebuild it to the initial form.

In case the superficiary alters the structure of the construction, art. 695 (3) of the Civil Code stipulates that the owner of the plot of land is entitled to demand, within 3 years, the cessation of the superficies right or the reinstatement to the initial condition. In the second case, the elapse of the 3-year prescription term is suspended up to the expiry of the term for which the superficies right was established.

According to art. 695 (4) of the Civil Code, the holder of the title may freely dispose of its right, and as long as the construction exists, the right of use over the land may only be alienated or mortgaged alongside the ownership title over the construction.

In order to defend its superficies right, the owner has at its disposal, according to art. 696(1) of the Civil Code, *superficies confessorory pleading*, which may be lodged against any party preventing it from exerting its right, including the owner of the plot of land. The right to the superficies confessorory pleading is not subject to prescription [art. 696 (2) of the Civil Code].

According to certain point of view expressed in the legal doctrine (Boroi, Anghelescu, Nazat 2013, 173), the holder of the superficies right may further exert the *possession pleading*, as well as, if applicable, the *personal pleading* deriving from the covenant establishing the superficies right.

Concerning the evaluation of the superficiary’s compliance with the relevant obligations, art. 697(1) of the Civil Code stipulates that in case the superficies was established onerously, unless the parties agreed upon other payment terms incumbent upon the superficiary, the holder of the superficies right shall owe, under the form of monthly installments, an amount equal to the rent set on the free market, considering the nature of the plot of land, the destination of the construction, if applicable, the area where the plot of land is located, as well as any other criteria for determining the counter value of use. In the case of misunderstandings between the parties, according to art. 697(2) of the Civil Code, the amount due to the owner of the land shall be set in court (Bucharest Court of Appeals, 9th Division for Civil Matter and Intellectual Property Cases, Decision no 219/R of 29 March 2007).

Finally, according to the provisions in art. 698 of the Civil Code, *the superficies right is extinguished* by erasure from the real estate register in the following cases: upon the *expiry of the term* for which it has been established; by *consolidation*, in case the plot of land and the construction become the property of the same person; by *the loss of the construction*, if expressly stipulated; *in other cases stipulated under the law*, such as, for instance: in the case of the expropriation of the plot of land on public utility grounds; upon the termination of the lease agreement stipulating that the lessee is entitled to build, plant or develop other works and that the

lessor will acquire the title over the construction, crop or work only upon the expiry of the lease agreement; in case the superficiary alters the structure of the construction, the owner of the plot of land may request, within 3 years, the cessation of the superficies right (Boroi, Anghelescu and Nazat 2013, 176; Boroi et al. 2017, 346; Chelaru 2013, 384).

Conclusions

The superficies right also applies in the case of crops, as well as of other durable autonomous works, constructions, crops or other works developed by the superficiary. It should be retained that the superficies right does not only operate with regards to the surface area of the plot of land, but also with regards to the underground constructions (e.g., an underground garage, a cellar, a tunnel, etc.). In other words, it takes the appearance of an air cube delimited not only in length or width (as it generally is), but also in terms of height and depth (Ungureanu and Munteanu 2008, 578).

In the light of the aspects mentioned herein, the superficies right may be defined as a temporary real estate right, on the basis whereof a person (superficiary) acquires the right of use over a plot of land belonging to another party (bare owner), hosting a construction, crop or other work over which the superficiary acquires the ownership title or the right to erect or generate the same assets on the plot of land acquired for use, which continues to be the bare owner's property (Bîrsan 2017, 259).

The superficies right is only compatible with the private property right, whoever the holder of this right may be, and it does not operate over, it is incompatible with, the public property right.

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Adoption System in Romania

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ABSTRACT: The Romanian society has undergone many changes over the years. Either in the economic, social, cultural, educational, but also family. One of the most important changes is the family structure and the creation of a new family. In this sense, since 1864, the institution of adoption was regulated in the Romanian Civil Code, which applied the Justinian law, as did the French one between the adopted and the adopter. The provisions of this code were abolished in 1954 by the entry into force of the Family Code, its autonomy and its detachment from civil law. The provision with a principle of value strictly related to the adopted one, according to which the adoption is only in the interest of the founder, is illustrative of the radical transformation of the essence of this institution-adoption. The fact is that the institution of adoption is no longer the instrument by which a family / person who wants a child can have it, but a means by which the child / adoptee can receive the family who needs.

KEYWORDS: adoption, child, family, process, Romania, system

Introduction

Adoption is at present one of the most controversial and complicated themes of national law, and it is also one of the most current phenomena of contemporary law. It is a theme with various problems, because over time it has undergone numerous changes. The fact is that the adoption system in Romania goes on a line of progress in all this institution. We also need to specify that changes in adoption during the years have contributed to an intensive process / adoption system for families in Romania and abroad. However, in all laws, draft laws, decisions taken by competent bodies in this regard were taken into account, first of all, the superior interest of the child, then of the family. This concept has primacy and takes precedence in everything we can call, national adoption or adoption process.

Scientific and practical research gives us the information that the child's best interest comes from making and then adopting the baby. The interest of the child is considered to be the ultimate goal of adoption. The child's superior interest should be superior to that of adoptive parents. However, in practice it is taken into account not to make the great distinction between the rights a child has and the rights an adult has, especially in the adoption process. Therefore, the interest of the child may be different from that of his / her parents or guardians, so that the best interests of the child prevail and prevail over other interests when taking action on the child.

Recommendation 874 (1979) of the Parliamentary Assembly of the Council of Europe states as a first principle the following: "Children must not be considered the property of their parents but must be recognized as individuals by their own rights and needs." The same recommendation addresses the fact that there should be a need for juveniles to have their own legal representation, to have an official lawyer to defend their interests in any conflict in the family and not only. For this cause divorce and separation procedures should be improved. Be first and foremost based on the principle that the interests of the child are primordial. The National Authority for the Protection of the Rights of the Child (NAPCR), the 2009 National Center for Family and Child Rights Protection, states that: they have to take them into account, avoiding to decide only on the basis of personal feelings or beliefs. (ANPCD 2001, 43).

The definition of adoption

With the development of society and the changes of social, economic, legal and technical at the origin of this change, the traditional family picture has undergone many changes that contribute essentially on child development.

For the blossoming and harmonious development of its personality, the child needs to grow and be educated in a family environment that will provide him with a happy climate, love and understanding. As much as possible, the child must be raised and educated in his / her home family. These criteria are defining or at least a fairly large margin for the growth, education and formation of the new generation. But if this is not possible, and will ensure the child a permanent family, where it is grown, educated, taught and trained to become useful and important to integrate into society without any difficulty. In this sense, the adoption institution offers the possibility of a permanent family of the child. This element is very important for a child, but equally important for the adopter.

The institution of adoption over time has been given several definitions, one of which is specified by Marieta Avram: "Adoption can be defined as the legal operation by which the paths of filiation and civil kinship are created, under the law, between persons provided by law" (Avram 2001, 90).

The new Civil Code, updated on January 16, 2012, provides in Title III, Chapter III, art. 451 that: "Adoption is the juridical operation that establishes the connection between the adopter and the adopter, as well as the relations of kinship between the adopt and the relatives of the admirer", Constantin Arcu (2003, 21) in his book, *International Adoption* says: "Indisputably, adoption is a special measure to protect the rights of the child, which is taken only to protect its interests."

In conclusion, we consider that adoption is a complex legal act of family law by means of a decision based on the court decision, it establishes both the filiation between the adopted and the adopter and the relationship between the adopted and his descendants, on the one hand, and the adopter and his relatives, on the other hand, with the discontinuation of the connections of the fire and the natural relationship for the adopted.

Adoption as a form of legal protection. National adoption requirements

Romania is a country where adoption was known as a child protection and legal protection practice. The current law on adoption is Law No 273/2004 on the Legal Status of Adoption, republished on April 19, 2012. It is applied at the level of the adoption system in Romania and contains some modifications related to this system. In general, this law expressly provides for the adoption procedure, the specific steps to be taken to adopt a child at both national and international level. It describes the following stages of the adoption process at national and international level, which is an element of novelty in the national adoption law. The law has ten chapters each with a specific regulatory segment in the adoption process and 99 articles summing up everything that can be learned about adoptions. Chapter I provides for general provisions of adoption; Chapter II provides the background to adoption; Chapter III provides for the adoption procedure and all sections thereof; Chapter IV provides for the procedure of international adoption, Chapter V provides for the effects of adoption, Chapter VI provides for the cessation of adoption; Chapter VII provides for common adoption procedures; Chapter VIII provides for the national enrollment register; Chapter IX provides for post-adoption monitoring and post-adoption activities, and the last chapter X provides for the final, transitional, and adherence provisions.

Fundamental conditions of adoption

The fundamental conditions of adoption are that required by law. The fundamental conditions are the circumstances or legal circumstances to which the persons prescribed by law must comply in order for the adoption procedure to be validly concluded and approved by the court.

Failure to comply with the substantive conditions leads to the absolute nullity of adoption. The background to adoption in the current adoption law is:

- Two people cannot adopt together either simultaneously or successively, only if they are husband and wife.
- A new adoption can only be approved when:

1. Adoptor or adoptive spouses have died, previous adoption is considered to have been abolished; 2. Previous adoption ceased for any other reason.

3. The adopted child has only one parent, unmarried, but who has a stable relationship with and cohabits with another person of the opposite sex, who is not related to him until the fourth degree, declares by authentic act to the notary that the new adopter participated direct to raising, educating the child for an uninterrupted period of 5 years.

People who can be adopted

The child can be adopted until the exercise capacity is acquired, and the person who has full exercise capacity can be adopted if he was raised during the minority by the person who wants to adopt. Adoption of siblings, regardless of sex, by different people or families can be done only if it is in the best interests of the child. In the civil code regulated by Law 287/2009, art. 457 provides that adoption between siblings is prohibited, irrespective of sex, also the adoption of two spouses or former spouses by the same adoptive parent or adoptive family, and adoption between spouses or former spouses is forbidden.

People who can adopt

In order to be able to adopt, it is necessary to meet the following background conditions:

- The ability and health of the adopter to meet legal requirements. Persons who do not have full exercise capacity, people with mental illness and mental disabilities cannot adopt.
- The age difference between adopter and adopter must be at least 18 years of age, for good reasons, the guardianship court may approve adoption even if the age difference between the adopter and the adopter is less than 18 years but not less than 16 years.
- Moral and Material Conditions. The adopter or adoptive family must meet the moral safeguards and material conditions necessary for the child's harmonious growth, education and development.
- Simultaneous or successive adoption. Two men cannot adopt together or simultaneously, or successively, only if they are husband and wife.
- Persons who consent to adoption are the natural parents, the spouse, the adopted person who has reached the age of 10, the husband of the adopter, his adopter or, as the case may be, the spouses of the adoptive family, when they adopt together. The consent given to the promise or the actual obtaining of benefits, regardless of their nature, is not valid. Adoption consent of the natural parents or, as the case may be, of the guardian can only be given after a 60-day-term child has passed since the child was born.

These are the most important background conditions of adoption that need to be respected in the adoption process.

Formal adoption conditions

The form of the legal act is the modality of the act of externalizing the manifestation of will made with the intention of creating, modifying or extinguishing a concrete civil legal relationship. Formal conditions refer to the acts that the parties have to conclude for the validity of the admission procedure. In the law as well as in the previous regulations, it is necessary to recognize that the consent of the adopter is necessary to the adoption of the consent, but to the adoptive family, and to the natural parents of the child or to other organs, according to the law, to give such consent. The consent of the adopter or the admiralty shall be given to the judicial establishment with the settlement of the request for admission.

Conclusions

Changing a society, changing systems takes place over time, and this has been demonstrated many times throughout history. The adoption institution has and still will have a leading place in the Romanian society, in view of the fact that it is a legal institution that is legally regulated based on the protection of the rights of the child. Not only can this be an essential one, which will always be a priority for any society. Adoption is an alternative that responds to the needs of the child and not just to the act but also to a family that wants to adopt. The identification of needs in the process of evaluation

by professionals in the field regarding the child and the admissions family are elements of novelty about the whole process of adoption.

Adoption is a state institution that governs family rights and provides the child with a special care and through it a family. For a beautiful development of the child, it needs to grow in a family environment, to ensure a climate of happiness, love and understanding. It must be appreciated that as far as possible the child must be raised in his/her family of origins, but if this is not possible, then a child will be provided with a permanent family in which he/she can be formed and grown to become useful to society to integrate without difficulty (Lupaşcu 2005, 241). Adoption is an institution specially created by law, family law to offer the possibility of having a permanent family to a child who is devoid of parenting or proper care on their part.

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The Role of Public Administration in Corporate Social Responsibility and Sustainability: A Descriptive Analysis of Lagosian Perception in Nigeria

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ABSTRACT: Corporate Social Responsibility (CSR) is set to be a concept whereby companies decide voluntarily to contribute better to societal development and cleaner environment in relationship with the State Government. This development pushes governments' developmental plans to act and impact public policies through adoption of CSR as a complementing factor to government programs. This study tries to examine and evaluate how the concept of CSR can be linked to Governance in managing public corporations and environmental integrity which public administrator needs to strengthen the philosophy of sustainability in increasing the support required by government and non-government actors by providing for public sustainability given the rapid adoption of CSR in business strategy. This paper addresses the question of how the theory of CSR practice can provide directions and support for Government Institutions. It's explores how CSR and practices can be integrated into public services to behave in a responsible and sustainable manner by discussing the perceptions of Lagosian and their responsibilities.

KEYWORDS: Corporate Social Responsibility, Public Policies, Governance, Public relations, Welfare state

Introduction

Corporate Social Responsibility (CSR) has become a major actor and practices in the public services and political economy of many countries. Under the current economic philosophy, they are regarded as the engine of growth, development and an integral part of Public Services. Based on these premises, the performance of Governmental institutions is of interest to both the government and the citizens. For any successful Government corporations, corporate social responsibility has long been identified as a core factor. It is also believed that corporate governance cannot be effective without effective corporate social responsibility (CSR).

LAGOS State Governor, Akinwunmi Ambode, has charged corporate bodies in the state to urgently support the effort of the government by engaging in Corporate Social Responsibility, (CSR) to develop grassroots communities in the state. He stated that the population of Lagos had been increasing on a daily basis, hence the need for the private sector to support the efforts of the government through CSR. "The challenge has increased over the years because of the recession in the economy which has stretched the resources of the government to cater for the weak and the old," he said, adding that the people at the grassroots had risen to the challenges of their environment by engaging in self-help projects. (Akoni 2017).

Jimi (2008) observes that presently, CSR is a family of concepts dealing with corporate philanthropy, corporate citizenship, community relations, community advocacy, corporate governance, accountability and transparency, corporate competence, corporate ethics, employee relations, human rights and so on. Essentially, various measures, models and concepts have been developed globally and nationally to ensure that these corporate social responsibility organizations survive and operate in the best interest of all stakeholders including the government. Wikipedia defines Corporate Social Responsibility (CSR) as a concept that organizations (but not only) corporations have on obligation to seek the interest of customers, employees, shareholders, communities and ecological considerations in all aspects of their operations.

According to the World Business Council for Sustainable Development (1999), CRS is defined as "the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the work force and their families as well as the local community and society at large" (cited by Odunlami 2008).

Jimi (2008) defines Corporate Social Responsibility as the capability of business (or any, organization) to pay more attention to its relationship with society and multiple stakeholders, rather than focus narrowly on maximising shareholder value”.

The above submissions underscore the relevance of the contention made by (Oso, 2008) that, “it appears all major companies have come to accept Corporate Social Responsibility (CSR) as an important component of business philosophy. Their acceptance, to be seen as being good and socially responsible corporate citizens, is a big shift in paradigm. The shift has more or less being forced on them by changing social values from the 1960s, particularly the ‘intrusion’ of the people into the political arena”.

CSR, in general, survives where good corporate governance of public administration is best practiced whereas the survival of corporate governance is tied to the effective application of Corporate Social Responsibility. This study explored the efficacy of corporate social responsibility (CSR) practices, which impact the lives of Lagosian and public services performance resulting in accountability, transparency and people’s oriented governance through the provisions and sustainability of public services for the benefits of the communities. The paper also enumerates the essence and impact of public administration performance and provide additional insights into the relationship between CSR and public services.

Briefing about Lagos State of Nigeria

Lagos (*Èkó*) is a city in the Nigerian state of Lagos. The city, with its adjoining conurbation, is the most populous in Nigeria, and the most populous on the African continent. It is one of the fastest growing cities in the world (UN Habitat 2006; Diop, Barousseau and Descamps 2014) and also one of the most populous urban agglomerations (Kaplan 2014). Lagos is a major financial center in Africa; the megacity has the highest GDP, and also houses one of the largest and busiest ports on the continent. (Lees, Shin and López-Morales 2015).

Lagos, the capital of Nigeria since its amalgamation in 1914, went on to become the capital of Lagos State after its creation. However, the state capital was later moved to Ikeja in 1976, and the federal capital moved to Abuja in 1991. Even though Lagos is still widely referred to as a city, the present day Lagos, also known as "Metropolitan Lagos", and officially as "Lagos Metropolitan Area" is an urban agglomeration or conurbation, (Caprio 2012) consisting of 20 LGAs, 32 LCDAs including Ikeja, the state capital of Lagos State. This conurbation makes up 37% of Lagos State's total land area, but houses about 85% of the state's total population (Lagos State Government, 2015). The exact population of Metropolitan Lagos is disputed, as at 2015, unofficial figures put the population of "Greater Metropolitan Lagos", which includes Lagos and its surrounding metro area, extending as far as into Ogun State, at approximately 21 million (Wikipedia n.d.).

Lagos was adversely affected during Nigeria's military rule (Draper and Hammond 2015). Also, on 12 December 1991, the seat of the Federal Government was also formally relocated to Abuja. However, Lagos still remains the financial center of the country, and also grew to become the most populous conurbation in the country. Lagos State is bounded on the north and east by Ogun State. In the west, it shares boundaries with the Republic of Benin. Behind its southern borders lies the Atlantic Ocean. 22% of its 3,577 km² are lagoons and creeks.

Background of CSR in Lagos State

The concept of corporate social responsibility had been existing in Lagos State from antiquity. Historical records show that corporate social responsibility has a long history which dated back to the ancient times where existed what is called tribal communes which supervised the activities of the tribe as well as individual members of the tribe to ensure conformity with tribal norms. As time went by, the tribal form later matured to the level of agrarian communities whereby the concept of family came to the fore with the activities of family members were monitored by the family councils, (Lai and Bello 2012).

Recently speaking, The Lagos State Governor, Mr. Ambode said the population of Lagos had been increasing on a daily basis, hence the need for the private sector to support the efforts of the government through CSR. “The 24 million people who inhabit Lagos State today, including the

corporate players must see Lagos as one big family where the rich help the poor and where each is his brother's keeper," he said. The governor said he looked forward to serious partnership between the private sector and the government in the next 24 months in the areas of needs assessment of the communities which cut across drainage rehabilitations, roads, electricity, pipe borne water, among others (Akoni 2017).

The Role of Public Administration

Public Administration is an instrument of the State welfare, when the state was confidently expected to meet all the social and economic needs of the citizenry, service delivery, resource allocation 'from the cradle to the grave'. It is a commitment to incremental budgeting focus on public service organizations, the dominance of the 'rule of law'; a central role in policy making and implementation through the State entering into a dialogue with private enterprises to frame a city development initiative with the aim to promote and support Corporate Social Responsibility (CSR) for the benefits of the people through socio-economic development plans, educational empowerment, recreational facilities and cultural purposes to improve the quality of life and the society at large.

Methodology

This study employed a composite exploratory and survey design methodology drawing from the previous literature review and studies in the related areas. The top five Ministries and parastatals were selected from the 44 Ministries of the State because they were perceived to have very crucial connections with the people of the State due to the resources and advantages of adopting corporate social responsibility practices.

Furthermore, these Ministries and parastatals exhibited higher engagement in governance of the State. The study examined the data for the fiscal year 2018. Data were collected from primary and secondary sources. Primary data were generated through structured open-questionnaire administered to 50 respondents at the Ministries and parastatals such as Ministry of Commerce, Industry & Cooperatives, Ministry of Education, Ministry of Home Affairs, Ministry of Information & Strategy, Ministry of Local Government & Community Affairs who are closely related to the general masses of the State.

The questionnaire was structured into two sections. The first section elicited information on CSR practices by the State Government and the second section elicited information relating to respondents' views on CSR practices in the private firm sector. The target respondents comprised top-level management members of the Ministries and the private firms in the sample. All the questionnaire administered were returned and correctly filled.

Consequently, data presentation and analysis were based on responses extracted from the Fifty (50) copies of the questionnaire. The responses were analyzed on the four main focus of this study which are; Infrastructure development, Educational and Health, Security and Philanthropic responsibilities (private firms and banking sectors). The data generated constituted the exploratory and survey on the waves, issues and practices of CSR in the State. The results of the open-ended questionnaire and the content analysis of the web-based CSR reporting are presented below in the analyses and discussions.

The Secondary data were extracted from published literatures and case studies on the practices of CSR in the State.

Analyses and Discussions

As was done in the interview, CSR was framed to reflect local realities functioning as tools for basic human need provisions by the Lagos Government administration and private firms giving back to the people as means for community development. All participant's respondents agreed that business firms must share part of their profits as contribution to sustain community development, betterment of the employee's life and their families, the society at large and to improve the quality of life.

The table below shows the critical area of priority the Lagosian preferred additional improvement in the area of public services to the people. Same table shows private business firms areas of concern by the people.

Table 1. Areas of Public Services Improvement

No.	Preferred Area of CSR by the People from Lagos State Government	Respondent Percentage (%)	CSR Area of Priority by the People from Private Business Firms	Respondent Percentage (%)
1	Improved Education	100%	Effective Commitment	50%
2	Standard Health Sector	100%	Improved Roads	50%
3	Improved Infrastructures	100%	Area Pipe borne water	55%
4	Poverty Alleviation	100%	Public Toilet at Hospitals and Schools	65%
5	Stable Electricity	100%	Internet Access at the public parks	80%
6	Improved Security	100%	Provision of Subsidies Medical Drugs	65%
7	Drainage Rehabilitation	100%	Employees right	55%
8	Public Toilet at Motor Parks	100%	Community Development projects	75%

Source: Rate of Respondents Views on CSR in Lagos State of Nigeria

Summarizing above, there are positive trends with a number of initiatives regarding CSR among the elite people of Lagos State and calls on the private business sectors to engage CSR effectively and efficiently to better the lives of the people and the community at large.

- 1. Preferred Area of CSR by the People from Lagos State Government:** The respondents unanimously agreed in unison that State Government MUST improve the provisions of public services which is an expected norm as the Government must provide for the general public. The Government also understand that they cannot succeed in their administration when public cries are ignored and unattended to.
- 2. CSR Area of Priority by the People from Private Business Firms:** The Lagosians expected socio-economic development programs from the private sectors in the State as Government alone cannot meet the people's needs. Overall, the respondents are aware of the private sectors and firm's contributions significantly. They want the firms to be more concerned with social services project as giving back to the public as no firms can grow stronger without the masses who patronizes their goods and services.

Characteristic of the Nigerian Corporate Social Responsibility in Lagos, Nigeria

CSR in Lagos State aimed towards addressing the peculiarity of the socio-economic development challenges of the State (e.g. poverty alleviation, health care provision, infrastructure development, education, etc.) and would be informed by socio-cultural influences (e.g. communalism and philanthropy charity). They might not necessarily reflect the popular western standard/ expectations of CSR (e.g. consumer protection, fair trade, green marketing, climate change concerns, social responsible investments, etc.) but it is an interesting case to explore the meaning and practice of CSR for many reasons.

It is a situation whereby Lagos State Government and the private companies integrate social and environmental concerns in their day to day administration business operations and with interaction with private firm's holders on a voluntary basis for the betterment of the community just like the Lagos State Governor Ambode said the state had now reached a time when non-state actors must play more role in supporting the self-help projects and programmes of the communities. He further solicits for serious partnership between the private sector and the government in the next 24 months in the areas of needs assessment of the communities which cut across drainage rehabilitations, roads, electricity, pipe borne water, among others.

Lagos had come to a point where CSR was greatly needed as government could not do all alone and needed the partnership of the private sector through CSR. In the same vein, the Deputy Consulate General, Peoples Republic of China, Guan Zhongpi, said the Chinese government had been partnering with Lagos in the area of CSR and that more attention would be given to the needs of the communities. He said the Consulate had previously implemented more than 10 CSR projects in Lagos, such as donating equipment to schools, sinking of boreholes at the Lagos University, among others.

Other Corporate Firms in Lagos also testifies that the issue of CRS is not new to them but this is an opportunity to further share development within communities. This tripartite partnership between, communities, corporate bodies and the government. It's an all-inclusive partnership that must come together to achieve for the development of the community.

This study finds out that CSR in Lagos consist of four main social responsibilities of the Government and Corporate bodies. These four are; Infrastructure development, Educational and Health, Security and Philanthropic responsibilities which are those actions that society expect for a company to be a good corporate citizen. With these, Lagos is engaging CSR to improve the well-being of society, comply with ethical, moral and environmental norms, foster relationships with corporate firms and banks in order to meet the dream of the mega city.

Conclusion and Recommendations

The State should develop a strategic partnership with the private sectors voluntarily to better the existing public utilities through professional management focusing on well-being of the people as contribution to sustainable development.

SCR projects should be made proactive, sympathetic, sensitive, and capable of meeting expectations of the public's needs and opinions because this will promote public confidence, encourages transparency and accountability which will have a positive effect on the social-cultural development of the grass-root sectors in Lagos State.

Finally, Lagos State Government should engage various partners from the business sectors, the private sectors, civil society Organization, and community based organisations in bilaterally and multilaterally capacity to create programs that train civil servants to promote better social and environmental practices in the society. The government as the determinant of policy should also serves to support and encourage the corporate social responsibility (CSR) programs of private sectors for the success of government programs in realising the society welfare and improving the quality of life of the people.

One of these roles is to run corporate social responsibility (CSR) programs into socio-economic empowerment programs through total implementation of socio-institutions as private sectors do not only exploit natural resources on a large scale in order to pursue economic benefits but must integrate social responsibility values as part of their policy for whole betterment of the State and her people.

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Nuclear Policy in Equation of Power Balance

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ABSTRACT: After the end of the Cold War, it was attempted to create the appropriate framework for progress in armaments control and disarmament. Although there have been fundamental changes in international relations and the security environment, efforts and initiatives in the field have proved to be often free from obstacles and disagreements. One reason for this is due to the increase in the number of states involved in the negotiations and, implicitly, the multiplication of political, economic and security interests. The logic of the bipolar world and nuclear deterrence, characteristic of the Cold War, did not take into account the security aspirations of other state actors. Currently, nuclear weapons, although necessitating an internationally sustained dialogue, raise issues that make it difficult to cooperate in this area. Owners cannot be subjected to collective sanction. Theoretically, they have great freedom of action, which can ultimately be restrained only by other nuclear powers. In addition, the idea of an anti-missile shield is increasingly being discussed, but in the absence of bilateral or multilateral agreements limiting the number and location of ballistic interceptors that can be placed by different states.

KEYWORDS: disarmament, international cooperation, nuclear hazard, nuclear weapons, political decisions

Introduction

The theme of nuclear proliferation, especially in its current dimension, as well as debates on agreements and treaties in force, are present both on the international agenda and at the level of studies and analyses. Lately, there has even been a particular emphasis on these concerns from international events. Recent developments in the beginning of 2019, such as the suspension by the US of the Intermediate-Range Nuclear Forces (INF) Treaty obligations, the subsequent reactions of the Russian Federation to this situation and the anti-missile shield in Europe, as well as the diplomatic failure of the Vietnam Summit, at the end of this February, without reaching a nuclear agreement between presidents Donald Trump and Kim Jong-Un, demonstrates that nuclear safety risks in the international arena are high. All of these points reveal that states having nuclear capabilities are not ready to give up their arsenals in the near future.

Nuclear issues from the perspective of international relations

Nuclear weapons are given an increasingly important role in the security and defense strategies and doctrines of the great powers. In parallel, international treaties in the field not only show the recognized deficiencies, but also constitute concerns for international relations. The United States suspension of obligations underwritten by the Intermediate-Range Nuclear Forces (INF), signed with Russia in 1987 (Arms Control Association, 2019), President Donald Trump's decision to withdraw the US from the nuclear agreement with Iran, the ambiguous position of the Washington Administration towards the development of North Korea's nuclear arsenal are the latest examples. Including during the 55th Munich Security Conference on 15-17 February 2019, where heads of state and governments, ministers and international relations experts highlighted several asymmetries between the US and Europe in a series of global issues, one of which involves keeping the Iranian nuclear treaty. There is some skepticism that a consensus can be reached on the amendment of existing international nuclear treaties or the design of new ones that have effects in terms of reducing the proliferation of nuclear weapons. International cooperation, being the main means of reducing one of the most dangerous threats in recent years, has to remove significant obstacles before concrete results are reached.

Since the early 1990s, nuclear weapons concerns have essentially been related to non-proliferation cooperation, to the conservation of the former Soviet arsenal, or to the prevention of regional nuclear weapons dissemination. In spite of international cooperation efforts aimed at curbing proliferation, and of significant measures to reduce the world arsenal, nowadays, thousands of nuclear weapons are held by the US, Russia, China, France, Israel, the United Kingdom, India, Pakistan, and, more recently, North Korea and Iran. In addition, following the waiver of some of the

nuclear arms deals negotiated in recent years, the US has been criticized for sending out contradictory signals to North Korea, Iran and other nations that have the technical knowledge needed to produce nuclear weapons.

There are seven confirmed nuclear powers in the world (in other words, they have publicly tested nuclear weapons: the United States, Russia, China, Britain, France, India and Pakistan.) To these add another three: Israel allegedly holds about 300 nuclear warheads, North Korea – about which there is no confirmation, apart from their own contradictory statements and Iran – for which the latest report of the International Atomic Energy Agency (IAEA) indicates that it intends to use atomic energy in military purposes (IAEA, Annual Report 2017). Among the last three, only Israel and North Korea have consistently refused to sign the Nuclear Non-Proliferation Treaty. By signing the Treaty, Iran is monitored and inspected, hence the frustrating statements of Tehran leaders who believe they cannot hide anything, and the conclusion that they would enrich uranium for purposes other than peaceful is inconsistent with reality.

Another fundamental dimension of proliferation is that although global powers gradually diminish their nuclear weapons depots, they all develop new missiles and warheads that could escalate the risk of atomic confrontation. Thus, the bigger number of nations that have nuclear weapons increases the risk of using such means. Today, unlike the Cold War period when nuclear weapons were considered a threat, states are beginning to consider their use.

Currently, the main concern of the five major nuclear powers (the United States, Russia, China, the UK, and France) is that some countries considered by the United States to be part of the Axis of the Evil (concept launched by the George W. Bush Administration in the summer 2001) not to be equipped with atomic weapons. For many years, they have been trying to discourage North Korea and Iran, alternating promises and threats, whose success has been uneven over the last few years. On the other hand, the incriminated states believe that the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) guarantees the inalienable right of everyone to develop nuclear technologies for peaceful purposes. Under these conditions, it is not acceptable that the development of such technologies belong only to countries that hold nuclear monopoly and who use the pretext of non-proliferation, which violates the treaty provisions and constitutes an act of discrimination. The real threat comes from non-party states that should be supervised, as they have unrestricted access to nuclear material, technology, and equipment, while states participating in the treaty are subject to limitations and restrictions. Several years ago, it was even said that a future non-proliferation treaty should ban the doctrine of using nuclear weapons against states that do not hold nuclear weapons, a position backed by the US and NATO (Kamal Kharrazi, former Iranian Foreign Minister, 2005).

Another issue that arises is to be able to distinguish between civilian and military nuclear programs. At present, this issue is not solved and is found in an ideological plan at the level of intentions. This raises the question of how effective disarmament is in a world where dual-use technologies bear the civilian label. Modalities are being sought (market mechanisms, international fuel banks) to ensure that states that have civilian nuclear reactors can receive fuel without having to produce it. Reactors that prevent proliferation are considered of the next generation, being in the project stage. According to this way of thinking, the difficulty in analyzing and quantifying, lies not only in the civil-military binomial, but also in the problem of rational attitude. At present, the nuclear balance is based on the assumption that states involved in nuclear programs have secure capabilities and adopt a rational attitude, the danger being generated only by pariah states. Another tendency is also to bring into use older concepts of use during the Cold War period. Thus, the doctrine of mutually assured destruction has not only lost its sense of being, but has also multiplied, functioning at the level of regional security. Nuclear weapons and the concept of mutually assured destruction are considered to have prevented the Cold War from turning into a global conflagration. In 1962, the US and Russia faced the Cuban Missile Crisis directly, but withdrew before the outbreak of a nuclear war over fears that they could destroy each other, a situation that led to the theory that nuclear weapons could have a positive role for international stability.

At present, it can be considered that, beyond the other factors involved, the nuclear parity between India and Pakistan has led to the best relations between the two countries after the Second World War. As a result, despite the proliferation of nuclear weapons, it may be concluded that, depending on the circumstances, a nuclear power can increase and not reduce stability in the region. Another example could be linked to the Middle East, where Israel is a nuclear power which, in the absence of a nuclear arsenal-holding adversary, could be tempted to use nuclear weapons as a first choice means of its military capability.

Removing the nuclear threat involves clearly defined requirements: limiting and even eliminating existing weapons, halting the proliferation and spread of nuclear weapons, and adopting measures to prevent modernization of the existing ones. The security environment has evolved since 1990 in the sense of increasing complexity and interdependence in international relations. International stability is conceived today on the basis of multi-level cooperation at the international community level. Greater dialogue is required in an institutionalized setting by increasing the involvement of major international organizations in defining the world's nuclear security.

Negotiations, treaties and agreements in the nuclear field

Opposing the realistic balance of power conception, the philosophical foundations of liberalism are cooperation and development within international organizations as an instrument of peace-building at the international level, which needs to be sustained through a disarmament policy. The topic of cooperation is present in neoliberal theories, being facilitated by the existence of international institutions that have to issue a set of legal rules, norms, practices and principles, as well as institutions for their application: treaties, resolutions of the Security Council, individual state declarations, memoranda, international conventions. At present, verification of compliance is achieved through international organizations or through states parties. (UNODA 2019). The main international body in the field is the International Atomic Energy Agency (IAEA), an organization subordinated to the United Nations and, in particular, to the Security Council. The IAEA is an international organization created in 1957, whose main task is to contribute to the development and practical use of atomic energy for peaceful purposes and to the development of scientific research in this field and currently counts 151 member countries. The European Atomic Energy Community (EURATOM) is an international organization for the peaceful use of atomic energy, set up in 1957 to develop nuclear energy in Western Europe and to control the use of nuclear materials. Between EURATOM and the IAEA, there is an agreement for joint application of safeguards and control in EU countries. Over time, other international bodies have played an important role in the field, but for short periods of time or limited objectives (eg the Arms Control Agency created in 1954 under the Brussels Treaty and subsequently abolished).

In 1946, based on the principles of the US-Canada High-Level Declaration, Canada, the United Kingdom proposed to the UN the creation of an international body responsible for the management and control of nuclear issues. In fact, one year before, they acknowledged that the nuclear monopoly could not be maintained and stressed the importance of preventing the proliferation and encouragement of peaceful applications of nuclear energy. On this basis, the United States Government (along with Canada and the United Kingdom) initiated the Baruch Plan and advanced it to the United Nations Atomic Energy Commission (UNAEC). This plan provided that all states should cease production of atomic weapons and submit production-related documentation to the United Nations Atomic Energy Commission (UNAEC). It aimed at “fully transferring the right of ownership and control over nuclear energy sources to the competence of an international body and transferring US stocks to the same international body” (Calvocoressi 2000, 33). The Soviet Union did not want to accept this plan, insinuating that, in this way, the United States would have nuclear monopoly. In reply, the USSR formulated their own proposals to ban nuclear weapons. In fact, both disarmament plans contained irreconcilable formulations. The American version referred to the idea of international property rights, and the Soviet one to the destruction of existing weapons stocks, which was rejected by the Americans, the only nuclear weapons possessors at that time. On this essential ground, the negotiations entered into a deadlock, then tacitly giving up the Baruch Plan. It is believed that its collapse led to the beginning of the

Cold War arms race. Once the danger of proliferation became clear - in 1949 the USSR detonated the atomic bomb and the United Kingdom in 1952 - the US President, Dwight D. Eisenhower, advanced in 1953, at the UN General Assembly, the Atoms for Peace Initiative.

On August 5, 1963, the USSR, the United Kingdom, and the United States sign the Partial Test Ban Treaty (PTBT), which entered into force on 10 October 1963 and was subsequently ratified by 123 states. The treaty was drafted and adopted in order to reduce the arms race and to stop the excessive testing of nuclear weapons, increasing the level of radioactive contamination at ground level, in the atmosphere and in the underwater environment. However, it has failed to stop proliferation, given two main causes. The first is because it did not contain verification mechanisms, and the second because underground experiments were exempted, which allowed both the US and the USSR to further refine their arsenals through tests conducted in an environment difficult to detect at the time. From a political point of view, the Treaty established the first great success of the disarmament partisans, marking the victory over the resistance of the followers of an arms race free from any restrictions, and also contributed to the consolidation of the international detente climate (Istrate 2005, 4). The treaty constituted a preamble to the conclusion of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was initiated on July 1, 1968 and effectively entered into force on March 5, 1970, with its ratification by Britain, the USSR and the US, along with other states. The Treaty recognizes two categories of states: non-nuclear-weapon states and nuclear-weapon states - US, UK, France, Russia and the PRC - respectively the 5 winning powers in the Second World War and also Permanent Members with veto rights in the UN Security Council. The treaty is also important by stipulating the obligation of non-nuclear-weapon states to accept IAEA safeguards (control).

Both treaties, the PTBT and the NPT, allowed the transition to a US-USSR bilateral approach to the problems posed by the accumulation of strategic armaments determined by the arms race. As a result, the negotiations started in Helsinki in 1969 ended with the signing on May 26, 1972, in Moscow, of two important treaties. One is the Strategic Arms Limitation Talks I, which noted the parties' agreement on setting of the maximum limits for strategic nuclear weapons (intercontinental ballistic missiles based on ground and submarines as well as strategic submarines) at the operational and construction site since the signing of the agreement. Under the SALT I Treaty, the two great powers also commit themselves to no longer manufacture strategic nuclear weapons for 5 years and not to build land-based launching ramps. The other bilateral agreement, the Antiballistic Missile Treaty, signed on May 26, 1972, entered into force on October 3, 1972, and represented a form of balance that deterred the execution of the first nuclear strike. The Treaty does not prohibit the development of anti-missile systems, but merely limits their operationalization. Under the terms of the treaty, neither party is allowed to build a national anti-ballistic system. Only two regional systems were authorized, one to defend the capital, and the other, a region at choice. An additional protocol, signed in 1974, reduced the number of locations to one, but raised the ceiling of the offer to 100 interceptors and 100 launching facilities. The Soviets decided to protect their capital, and the Americans placed interceptors around the intercontinental ballistic missile launch facility at Grand Forks (North Dakota). Significantly, in the same year, the IAEA launches the first agreement for regional technical cooperation in the nuclear field, namely the Regional Cooperative Agreement for Asia and the Pacific. On June 18, 1979, President Jimmy Carter and Leonid Brezhnev signed the SALT II Treaty as a complement to the first agreement and the precursor to a SALT III nuclear missile agreement in Europe. Negotiations on this last deal have been postponed. After the Soviet invasion of Afghanistan (1979-1989), bilateral relations deteriorate, treaties are no longer ratified, but are rigorously respected by Moscow and Washington.

On March 23, 1983, Ronald Reagan launched the Strategic Defense Initiative (SDI), which distinguished between offensive and defensive nuclear weapons, and planned to deploy spacecraft in order to destroy the intercontinental ballistic missiles launched by the enemy. The initiative is also known as "Star wars". In the official launch speech of the Initiative, President Reagan expressed his intention to initiate a global missile defense, space-based Maginot line, based on space satellites and lasers, capable of intercepting any type of intercontinental ballistic missile nuclear cargo coming from

the Soviet Union (Kissinger 2003, 677). Three years later (January 1986) Mikhail Gorbachev, he formulated the proposal for the complete elimination of atomic weapons, not accepted by the United States. But in the same year (September 1986), 35 states sign the Stockholm agreements, which establish mutual control of military equipment and activities in the field.

The Intermediate-Range Nuclear Forces Treaty (INF) was signed on December 8, 1987 in Washington, marking an important moment in the evolution of the Cold War, but it also has a major impact on the evolution of the international relations of the world today. It provides for the reduction of a whole class of nuclear weapons: ballistic missiles and cruise missiles ranging from 500 to 5,500 km. It has an unlimited validity period and allows both parties to carry out verification inspections at the military facilities of the other party. The treaty was politically considered to be one of the starting points of the end of the Cold War. It involved the physical elimination of all SS-20 Soviet missiles directed against Western Europe and all Pershing II and Cruise missiles in NATO countries and aimed at the USSR. But, as already mentioned, the deal is currently in deadlock, both the US and Russia having recently decreed, at the highest level, to withdraw from this agreement, accusing each other of systematically breaches of the treaty.

The current situation and the prospect of promoting cooperation in international relations

Nuclear weapons are the most dangerous products of military arsenals. Their destructive capacity is immense, ranging from entire cities with millions of inhabitants to the natural environment with catastrophic, long-term effects for the evolution of living beings, for the atmosphere, temperature, light, landscape, water, soil, etc. The effects of using such weapons at war have been demonstrated twice in history, by the bombing of the two Japanese cities of Hiroshima and Nagasaki in August 1945. Some reports say the number of victims is between 129,000 and 240,000 or even more (United Nations Office for Disarmament Affairs (UNODA 2019). Half of the victims were registered only on the first day, and the other half during the months and years ahead. And let's not forget that in 1945 the destructive capacity was different from that of today's nuclear weapons and no one knew whether they had an impact on the environment or on the population.

In a study by the Stockholm International Peace Research Institute (SIPRI) published in July 2017, the 9 nuclear states had a total of 4150 deployable operational nuclear weapons at the beginning of the year (see Table 1). If one counts all warheads held (in reserve or in the course of withdrawal) it would total 14,935, compared to 15,395 that were quantified in 2016. The reduction is, however, apparent. Nuclear powers reduce their nuclear arsenal on the one hand, but on the other hand, they modernize their nuclear capabilities in the context of increased investment in such weapons, according to the SIPRI report released in July 2017. Both the US, as well as Russia, who still possess 93% of the world's nuclear arsenal, are investing large sums of money to modernize it (SIPRI 2019).

Table 1. World nuclear forces, 2017

Country	Year of first nuclear test	Deployed warheads*	Other warheads	Total 2017
USA	1945	1,800	5,000	6,800
Russia	1949	1,950	5,050	7,000
UK	1952	120	95	215
France	1960	280	20	300
China	1964		270	270
India	1974		120–130	120–130
Pakistan	1998		130–140	130–140
Israel	.		80	80
North Korea	2006		10-20	10-20
Total		4,150	10,785	14,935

Source: SIPRI: Global nuclear weapons: Modernization remains the priority, 3 July 2017

Nuclear weapons, although requires an internationally-sustained dialogue, raises issues that make difficult cooperation in this area, allowing nuclear states to escape collective sanctions. Theoretically, a state that possesses such powerful tools in its own arsenal, has great freedom of action, and it can be limited and ultimately embedded only by other nuclear powers.

In the same register, efforts to stop proliferation during the Cold War also include the creation of free zones of nuclear weapons. The Soviet Union first introduced the idea in Central Europe to the UN General Assembly in 1956. This initiative meant for Europe, as well as the following ones, were not put in practice. The first successful initiative to establish a free zone of nuclear weapons originated in Latin America amid the 1962 missile crisis. Nuclear tests were also a catalyst for another free zone in the South Pacific. The proposal was made by New Zealand in 1975 at the regional forum of this area. A Free Nuclear Weapon Area is a regional arrangement that prohibits the development, manufacture, stockpiling of the acquisition, possession of any explosive nuclear devices within the area of application by any contracting party. Applications for the peaceful use of nuclear energy are usually allowed subject to the application of IEA safeguards (control). As geographic areas that are completely free of nuclear weapons, free areas are recognized as important international nuclear non-proliferation and disarmament tools and represent a step towards a nuclear-free world. The denuclearised area was considered as a transitional measure of limiting the nuclear threat, which integrates into a system of measures aimed at preventing the proliferation of nuclear weapons, stopping the nuclear arms race and removing them from the arsenal of states. (Ionescu, 183).

A concept in the theory of international relations that takes into account the relationships between political entities is that of a security community that designates a group of actors who are genuinely convinced that the members of the community will not fight with each other, but will resolve their differences in a peaceful and differentiated way. Nuclear weapons have been part of NATO's collective defense policy since its inception. In the defense doctrine of November 1949, reference was made to the Alliance's ability to execute strategic bombings with this type of weaponry. Responsibility in this context was granted to the United States, which, as far as possible, had to be assisted by other nations. In 1999, NATO adopted a Strategic Concept based on a new set of principles. Indeed, since the early 1990s, NATO's nuclear policy has undergone a process of adaptation to the new security context (NATO Handbook 2006, 18-19). This has also been translated into significant reductions in nuclear capabilities (located in Europe) and in promoting measures to increase confidence and security with Russia. NATO's nuclear policy is based on respect for the Nuclear Non-Proliferation Treaty, considered by NATO members as the cornerstone of the international nuclear non-proliferation regime. All Allies are members of the NPT and support the universalization, observance and full implementation of the treaty, as well as other relevant international instruments in the field.

Europe's anti-missile defense program (ABM), would include the possibility of cooperating with Russia on the issue of reducing the nuclear arsenal, re-establishing the relationship by reviving bilateral and strategic arms control. US President Donald Trump presented his new missile defense strategy on January 17, 2019 to respond to the threats posed by the new armies of Russia and China, as well as Iran and North Korea. The new strategy, which replaces a 2010 document focusing on intercontinental missiles, provides for the development of weapons to counter the threat of cruise missiles. The new US anti-missile strategy has only increased tensions worldwide. In this context, Russian President Vladimir Putin assessed on 20 February 2019 the state of the Russian nation as part of the traditional annual message to the Russian Federal Assembly. He stressed that Moscow is aware of the development of the global anti-missile system. Russia, said President Putin, is forced to create and deploy weapons that can be used not only against those territorial locations from which the direct military threats emerge (here were stressed as targets the locations in Romania and Poland), but also against those "decision-making centers on the use of missile systems that threaten us". It follows that the options for the role of nuclear weapons and their presence on the territory of some European countries, as well as the role and evolution of anti-missile defense systems remain to be clarified, given the recent expression of different positions in relation to these issues, both at

the level of the two great powers and at NATO level. This is because the Russian Federation has repeatedly replied to NATO's decisions, bringing about nuclear arguments.

Conclusions

The logic of the bipolar world and the nuclear deterrence, characteristic of the Cold War, did not take into account the security aspirations of other state actors. Paradoxically, the prolonged confrontation between the US and the USSR has created a world in which other states, less involved in this game, have refused to accept the guarantees offered by either of the two powers, opting to obtain their own nuclear capability, aiming to address their concerns about security vulnerabilities. Neither the influence of the two superpowers nor the international security mechanisms have been able to prevent the proliferation of nuclear weapons and carrier vectors. There are, however, significant differences between the motivations of each of the states owning or aspiring to possess nuclear military capabilities.

The only solution to avoid the nuclear arms race is international co-operation through engagement in general arms control negotiations, in negotiations that lead to the regulation of the field through information exchange and the limitation of nuclear capabilities that may pose threats to one state or another.

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Talent in Modern Management

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ABSTRACT: Research covers the sphere of talent management, which plays an important role among strategic HR issues. More and more organizations pay their attention on attracting, managing and retaining talented employees with them. During the last decade business owners have recognized the significance of talent in achieving business results and exceeding performance standards. Talent management as the important strategic tool has left the boundaries of HR department and has become the concern of the whole organization. Despite these statements, in reality, not many managers have practical knowledge of how to discover and manage people with exceptional talent and what to do to keep them inside their companies. The labor market is quite dynamic and people often move from one organization to another, while organizations continue to fight to attract the best available talents. My research explores what are the methods and tools to find, manage and retain best people. I will explore the theoretical background of the topic, find out some practical tools and discuss how can scientific literature available for the given moment help business owner and managers to make right decisions.

KEYWORDS: talent, organization, management

Introduction

Human resource nowadays is the key resource for any organization. Modern HR practices are focused to enhance the performance of modern teams, top and middle management and organization as a whole. In contemporary management HR is not only a tool for hiring, recruiting and compensation labor force but HR is now scientific field, which is studied, researched and controlled. It has become a functional part of an organization not less important than marketing, finances or operations management issues of an organization. Moreover, successful HR practices can be critical for abovementioned functions and for the whole organization as it ensures the proper human composition of each organizational unit.

Talent management is a new concept, nowadays it's quite a difficult phenomenon to measure, as long as there are no specific tools to make relevant measurements. Finding the best ones can happen not only externally but as well inside the organization; previously hired core employee can be developed and transformed into the brightest asset of the company. The main point here is to hold right tools and approaches towards these goals.

It's interesting to explain the concept of talent itself. If companies work towards flourishing talents into their employees, this could work as the best investment in the future. I would like to offer the idea of incorporating methods like learning, training and motivation into one process of managing talent, as the long term and ongoing activity, directed towards the future best results of the company.

Talent Management and Organization

Interesting question is whether talent is something person is born with or a skill that can be worked out and developed. Psychologist Carol Dweck developed the concept of mindset, according to this concept there are two kinds of people: those with a fixed mindset and those with a growth mindset. People with a fixed mindset believe that their talent is static and do not try to develop it. On the other hand, people with a growth mindset try to develop their talents through practice and hard work. The idea of Dweck's concept is that it's about person and all the great people have a growth mindset (Dweck 2013).

This is quite interesting explanation, as long as it offers us the idea of people who would like to be developed and grown. If people believe, that we all have some hidden talents, finding something that later becomes our strength, can increase motivating us into the process of searching not only into ourselves but in others as well.

Only recently, term “talent” was connected to the organizations and organizational studies. Incorporation of this term and concept of “talent management” is linked to the human function of organizations, in particular, to the human resource management.

A new term of talent management has been introduced in the last decade. Schon & Ian, worked on the issue titled as “The global war for talent”. They stated that the last decade witnessed global changes that intensified the competition in pooling the talent internationally and talent management becomes a challenging aspect of organizational development (Schon & Woodward 2009).

Managing talent is a challenge to all organizations in the context of globalization irrespective of the country (Gardner 2002). Moreover, the concern about the scarcity of talent is almost universal. Organizations around the world are competing for the same pool of talents. This is seen as a global labor market for talents. The trend of global integration shows organizations’ standardizations in talent recruitment, development and management, to ensure their competitive position and consistency. Therefore organizations have to adapt global best practices of talent management and at the same time adapt the local requirements and local labor market (Stahl et al. 2007).

Contemporary organizations are competing to hire and retain top talent. They try to bring talents not only for executive positions but as well for core, knowledge workers. This approach came into existence after organizations realized that people are their most important asset, and that these assets are leaving the organization every day.

The purpose of talent management is to recruit, hire, retain and develop the talent. Knowledge and skills possessed by the workforce can become critical resource of competitive advantage and cutting edge innovations. Losing this opportunity is a big loss for every organization.

"People enter business as bright, well-educated, high-energy people, full of energy and desire to make a difference," says Hanover's O'Brien. "By the time they are 30, a few are on the "fast track" and the rest 'put in their time' to do what matters to them on the weekend. They lose the commitment, the sense of mission, and the excitement with which they started their careers. We get damn little of their energy and almost none of their spirit" (Senge 2006, 5).

Talent management as a new field of business and management need thorough research and systematization. What are the methods and processes that need to be used by person working in this field? What are the steps that need to be taken to ensure the smooth cycle beginning from the employee attraction to final retention or leave?

An article from the Asian Development Bank clearly defines the key concepts and elements of talent management. According to this article, definition of talent is specific for different organizations and depends on factors like industries, markets and of course the nature of talent’s work. And talent management itself is defined as “the additional processes and opportunities that an organization makes available strategically to a pool of people who are deemed to have talent. If talent is not identified and managed by the entire management team, not only the human resource management unit, talent may just as well be defined as a dormant or untapped quality to be accessed in the future, either in an individual or in the collective” (Cornell University ILR School, Digital Commons Network).

Some authors consider talent management issues from the point of views of the global dilemma. They consider that the talent problem is universal as well as the pool of available human resources for which global companies are fighting for. Considering today’s pace of globalization, where the smallest companies can become international this approach seems to be true.

Broadly defined, global talent management involves the systematic identification of key positions which differentially contribute to the organization’s sustainable competitive advantage on a global scale, the development of a talent pool of high potential and high performing incumbents to fill these roles which reflects the global scope of the MNE (multinational enterprise), and the development of a differentiated human resource architecture to facilitate filling these positions with the best available incumbent and to ensure their continued commitment to the organization” (Mellahi and Collings 2010).

Talent management is strongly connected to the management of knowledge. Knowledge is something that changes the behavior of human. Continuous change is critical to be successful and competitive on nowadays demanding market. When companies change strategies, goals, ways of acting, learning and changing behavior of their employees becomes the biggest necessity. Changing the top doesn't guarantee the change of the whole organization. Learning and developing the top as well doesn't guarantee future success. Company as the whole organism needs to be cared and developed that will guarantee the future best results.

Conclusion

There are several different ideas and explanations of the subject from different perspectives. These definitions can be interesting for some managers, but they aren't tangible and practical. Our mission should be to provide as many practical methods and tool as possible for managers to use as we can. Researching talent oriented business models should be the main focus. Talent oriented business models can be based on flexibility, risk and experiment. HR branding, managed onboarding systems, learning through the organizational experience and clear career paths can be some good methods to be used. Someday, talent management can become the strongest process inside an organization that will incorporate activities of finding, growing and retaining the best-talented people.

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The Role of the Fiscal Administrative Act in the Romanian Tax System

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ABSTRACT: Through this article we want to present the role of the fiscal administrative act in the Romanian tax system. Thus, we will define the fiscal administrative act and other institutions specific to the Romanian tax system, such as the administration of fiscal burdens by the tax authorities or the procedure for communicating the fiscal administrative act. Also, we will present the legal effects produced by this act, its traits and its conditions of form and substance, as well as its role in the Romanian tax system.

KEYWORDS: fiscal administrative act, fiscality, Romanian tax system, legal effects, tax authorities

Introduction

The new legal provisions underlying the Romanian tax system entered into force on 1 January 2016 through Law no 227/2015 regarding the Fiscal Code (The new Fiscal Code was adopted by Law no 277/2015 regarding the Fiscal Code published in the Official Gazette of Romania no 688/09.10.2015, as amended and supplemented) and Law no 207/2015 on the Fiscal Procedure Code (The new Code of Fiscal Procedure was adopted by Law no 207/2015 regarding the Tax Procedure Code published in the Official Gazette of Romania no 547/07.23.2015, as amended and supplemented).

In the new Code of Fiscal Procedure, article 1 point 1, the legislator defines the **fiscal administrative act** as a “document issued by the tax authority in the exercise of the administration of taxes, duties and social contributions, in order to establish an individual situation and to produce legal effects to the person to whom it is addressed.”

Regarding the notion of the fiscal administrative act, it should be noted that, over time, the Romanian doctrine (see, for example, Fanu-Moca 2013, 107-109) has expressed many criticisms regarding the old (In the old Code of Fiscal Procedure adopted by Government Ordinance no. 92/2003, repealed, the fiscal administrative act is defined in art. 41 as follows: “the administrative act is an act by the competent fiscal body of legislation on the establishment, modification or termination of rights and tax obligations”) definition of the fiscal administrative act proposed by the legislator. Thus, in the light of new regulations and a new (Cilibiu and Ioana 2015, 95) opinion expressed in the literature, we can see that this new definition of the legislator comes to emphasize the species character of the fiscal administrative act in relation to the administrative act, as the latter is provided by Law no 554/2004 on administrative litigation, as amended and supplemented, as “unilateral act with individual or normative nature issued by a public authority, in a public power, to organize law enforcement or law enforcement in concrete, which creates, modifies or extinguish legal relations”; also, according to the law are treated as administrative acts and “contracts from public authorities that concern the enhancement of public property, works of public interest, public services, public procurement and by special laws may provide other types of contracts subject to administrative jurisdiction of the administrative courts” (article 2, paragraph 2 letter c).

Therefore, as can be seen, the administrative act is the specific difference, regulated by the tax rules included in the branch of tax law, in order to produce legal effects generating tax rights and obligations, while the administrative act is the proximate genus, analyzed by administrative law.

Also, according to the specialized literature (Cilibiu and Ioana 2015, 96), the fiscal administrative act is a unilateral manifestation of will on the fiscal authorities to establish an individual fiscal situation, made for the purpose of birth, modification or extinguishment of tax legal relationships whose performance is guaranteed by the coercive force of the state.

Furthermore, the fiscal administrative act takes the legal nature (Fanu-Moca 2006, 110-113) of an administrative act of authority of a special, individual character, and, in accordance with the new provisions, is issued in the exercise of the administration of taxes, duties and social

contributions, in order to establish an individual situation and to produce legal effects to the person to whom it is addressed.

Thus, corroborating the comments (See, broadly, Anghel and Bragaru 2006, 103-110; Sasu, Țătu and Pătroi 2008, 131-132) of the old regulations on the fiscal administrative act with the current form of its legal definition we conclude that the fiscal administrative act must fulfill the following **conditions**:

- a) The administrative act must be *issued by a public authority*;
- b) The legal act issued by tax authorities *must meet the legal requirements in order to be considered an administrative act*;
- c) Public authority must also be *a fiscal body (tax authority)*;
- d) *The fiscal body (tax authority), in the procedure for issuing the fiscal administrative act, must respect both the territorial competence and the material competence established by the law*;
- e) The act must be *given in the exercise of the administration of taxes, duties and social contributions, in order to establish an individual situation and to produce legal effects to the person to whom it is addressed*.

The traits of the fiscal administrative act

First, the tax administrative act is *a unilateral manifestation of the will of its issuer*. This particularity of the fiscal administrative act is important from the perspective of *delimiting administrative acts from administrative facts*. One of the most important consequences of this delimitation concerns *the taxpayer's right* (Article 268 of the Code of Fiscal Procedure provides for the right of the taxpayer's appeal against the debt instrument (the fiscal debt title) as well as against other fiscal administrative acts if they are deemed to be harmed in their rights by a fiscal administrative act. Furthermore, the appeal is an administrative appeal, which does not remove the right of action of the person who is considered to be injured in his rights by a fiscal administrative act. Also, corroborating the provisions of the Fiscal Procedure Code with the provisions of article 7 of Law no. 554/2004 (the current regulation in the area of fiscal contentious is the Law of administrative contentious no. 554/2004, published in the Official Gazette of Romania no. 1154/12.07.2004), it appears that this appeal - the administrative appeal - is a preliminary procedure and it is mandatory to go before the court is notified with an administrative litigation) *to challenge fiscal administrative acts*.

Secondly, the manifestation of the will of the tax body *generates legal effects*, that is, *rights and obligations*. This feature of the fiscal administrative act *distinguishes it from other manifestations of will* (replies, addresses, views, etc.) that do not create rights and obligations, having an orientative character for the recipient.

Thirdly, the fiscal administrative act is *a species of the administrative act*, with all the consequences deriving from this qualification.

Fourthly, for an administrative act to be an administrative act *of a fiscal nature*, it *must emerge from a fiscal body (tax authority)*.

Fifthly, the fiscal administrative act has *an individual character*.

A sixth particular feature of the tax administrative act is that it *is issued in the exercise of the administration of fiscal burdens* by the tax authorities.

At the same time, the provisions of art. 46 Code of Fiscal Procedure provide *the written form* of the fiscal administrative act, either in paper or electronic form, a requirement which constitutes *an ad validity* (The latin expression used in the Romanian legal system being *ad validitatem*) condition (Anghel and Bragaru 2006, 114) and *not ad-probation* (The Latin expression used in the Romanian legal system being *ad probationem*), and its non-compliance implies absolute nullity sanction.

Also, according to par. (2) article 46 Code of Fiscal Procedure, **the fiscal administrative act issued on paper** shall contain the following **elements**:

- a) The name of the issuing tax authority;
- b) The date on which it was issued and the date on which it takes effect;

- c) Taxpayer/payer identification data and, where applicable, identification data of the person empowered by the taxpayer/payer;
- d) The object of the fiscal administrative act;
- e) Factual reasons;
- f) The legal basis;
- g) The name and signature of the persons empowered by the tax authority, according to the law;
- h) The signature of the empowered persons of the fiscal body, according to the law, as well as the stamp of the issuing tax body;
- i) The possibility of being challenged, the deadline for filing the appeal and the fiscal body to which the appeal is lodged;
- j) Statements on the hearing of the taxpayer/payer hearing.

The fiscal administrative act issued in electronic form includes the aforementioned elements, *except for* the signature of the authorized persons of the fiscal body, as well as the stamp of the issuing tax body, *but will carry the extended electronic signature, based on a qualified certificate*, or of the Ministry Public Finance, or the local public administration authority, according to the central or local issuing tax authority, as the case may be (according to the combined provisions of paragraphs 3, 4 and 5 of article 46 Code of Fiscal Procedure).

Meanwhile, according to par. (6) article 46 Code of Fiscal Procedure, the fiscal administrative act issued under the conditions of article 46 par. (2) and *printed by means of a mass print center* is also *valid* if *it does not bear the signature* of the empowered persons of the fiscal body *and the stamp* of the issuing body, if it meets the legal requirements applicable in the matter (In this respect, see, for example, the Order of the Ministry of Public Finance no. 1107/08.13.2012 regarding the issuance through the mass printing center of some administrative and procedural documents).

At the same time, it should be noted that in the light of the provisions of para. (9) article 46 Code of Fiscal Procedure (a novelty of the Fiscal Procedure Code compared to the old regulation), the fiscal administrative act *is considered issued and registered with the fiscal body* as follows:

- a) *At the date of its signing* by the person empowered within the fiscal body, in the case of fiscal administrative act issued on paper;
- b) *At the time the document was generated*, in the case of a fiscal administrative act issued on paper and printed through a mass print center;
- c) *At the time of the application of the extended electronic signature*, in the case of an electronic administrative document issued in electronic form.

Moreover, according to par. (10) article 48 Code of Fiscal Procedure, within no more than 10 working days from the date of issuing the fiscal administrative act, the fiscal body must initiate the actions for the notification *of the act (must initiate the communication procedure)*.

The role of the fiscal administrative act

Starting from the definition provided by the law, we can see that **the role** of the fiscal administrative act *is to establish an individual situation and to produce legal effects to the person to whom it is addressed*.

However, given the legal definition, the fiscal administrative act is issued by the tax authority *in the exercise of their duties on the administration of taxes, duties and social contributions*.

Furthermore, according to point 2 article 1 Code of Fiscal Procedure, by the administration of taxes, duties and social contributions, in other words, *the administration of fiscal burdens*, it is understood *any of the activities carried out by tax authorities in relation to*:

- a) Tax registration of taxpayers/payers and other subjects of tax (fiscal) legal relations;
- b) Declaring, establishing, controlling and collecting fiscal burdens;
- c) Resolution of appeals against fiscal administrative acts;
- d) Assistance/guidance to taxpayers/payers, on request or ex officio;
- e) Applying sanctions under the law.

The legal effects of the fiscal administrative act

The legal effects of the fiscal administrative act will also be related with the procedure on the administration of fiscal burdens by the tax authorities

The legal definition of the fiscal administrative act expressly states that its purpose is to produce legal effects to the person to whom it is addressed. According to the provisions of article 48 par. (1) Code of Fiscal Procedure, the tax administrative act shall take effect as soon as it is communicated to the taxpayer/payer or at a later date mentioned in the administrative act communicated under the conditions of article 47 Code of Fiscal Procedure.

In addition, the fiscal administrative act *that was not communicated* according to the law *is not opposable to the taxpayer/payer and does not produce any legal effect*. In other words, *“the lack of communication of an act does not entail the nullity of the act not communicated, but it will invalidate its legal effects”* (Civil decision no 433R /02.10.2014).

As a consequence, the tax administrative act *must be communicated to a taxpayer/payer to whom it is binding*, otherwise it will not produce legal effects. And *the fiscal body must initiate the actions for the notification of the act within no more than 10 working days from the date of issuing the fiscal administrative act*.

The communication procedure of the fiscal administrative act

Article 47 par. (1) Code of Fiscal Procedure expressly provides that the tax administrative act must be communicated to the taxpayer/payer to whom it is intended. And, in the situation of the taxpayer/without a domicile in Romania, who has appointed himself an empowered person according to article 18 par. (4) Code of Fiscal Procedure, as well as in the case of the appointment of a fiscal curator, under article 19 Code of Fiscal Procedure, *the fiscal administrative act shall be communicated to the empowered person or the curator*, as the case may be (By way of exception to the provisions of paragraph (1), paragraph (18) article 47 Code of Fiscal Procedure, provides that in case of insolvency or dissolution companies, according to the law, *the communication of the fiscal administrative act shall be made to the judicial administrator / liquidator* in the place indicated by him/her whenever requested in writing).

Regarding the communication procedure, the law (as provided in Article 47 Code of Fiscal Procedure) distinguishes between the communication of the fiscal administrative act issued on paper and the communication of the fiscal administrative act issued in electronic form.

Thereby, according to par. (15) article 47 Code of Fiscal Procedure, the fiscal administrative act issued in electronic form shall be **communicated by electronic means of distance transmission** whenever the taxpayer/payer has opted for this method of issuance and communication and shall be deemed to be communicated within 15 days from the date of transmission of the document to the taxpayer/payer or their empowered person or curator.

Furthermore, according to par. (15) article 47 Code of Fiscal Procedure, the fiscal administrative act issued on paper may be **communicated either by post, or by surrender at the fiscal domicile of the taxpayer/payer** or his/her empowered person or curator, or **by surrender at the headquarters of the fiscal body**.

Firstly, according to par. (3) article 47 Code of Fiscal Procedure, the fiscal administrative act issued on paper shall be communicated to the taxpayer/payer or to his empowered person or curator at the fiscal domicile by post, with registered letter with acknowledgment of receipt.

If communication was not possible in this way, this will be done through advertising under the terms of the law, according to par. (4) article 47 Code of Fiscal Procedure.

According to par. (5) article 47 Code of Fiscal Procedure, **the communication through advertising** is made by displaying an **announcement** stating that the fiscal administrative act has been issued in the name of the taxpayer/payer, as follows:

- a) In the case of fiscal administrative acts issued by the *central fiscal body* by *displaying the announcement, at the same time at the headquarters* of the issuing tax body and *on the website of the National Agency for Fiscal Administration*;

- (b) In the case of fiscal administrative acts issued by the *local* tax authority by *displaying the announcement, at the same time at the headquarters* of the issuing tax authority and *on the website of the respective local public administration authority*.

This announcement shall be kept for at least 60 days from the date of its publication and shall contain the following (according to par. (6) article 47 Code of Fiscal Procedure):

- a) The surname and forenames or the name of the taxpayer/payer;
- b) The tax domicile of the taxpayer/payer;
- c) The name, number and date of issue of the fiscal administrative act.

If the fiscal administrative act is communicated through advertising, it *shall be considered communicated within 15 days from the date of the announcement* (according to par. (7) article 47 Code of Fiscal Procedure).

Secondly, according to par. (8) article 47 Code of Fiscal Procedure, *by way of exception* to the provisions of paragraph (3), the competent fiscal body may decide to communicate the fiscal administrative act issued on paper ***by surrender, under signature, at the tax domicile of the taxpayer/payer*** or his / her empowered person or curator, *through the employees of the fiscal body*.

If in this situation of communication *the addressee refuses to receive the document or is not found at the tax domicile*, a ***notice shall be displayed on his/her door*** (according to par. (9) article 47 Code of Fiscal Procedure).

Thus, according to par. (10) article 47 Code of Fiscal Procedure, if the taxpayer/payer or his/her empowered person or curator *refuses to receive* the fiscal administrative act, *the act shall be deemed to have been communicated on the date of the notice*.

But, if they are *not found at the fiscal domicile*, the taxpayer/payer or his *authorized representative* or curator *is entitled to submit, within maximum 15 days from the date of the notification of the notice, to the headquarters of the issuing tax authority* for the fiscal administrative act to be communicate to them. In the event that the taxpayer/payer or his/her empowered person or curator *fails to submit within this time limit*, *the act shall be deemed to have been communicated upon this date* (according to par. (11) article 47 Code of Fiscal Procedure).

The aforementioned *notice* shall include (according to par. (12) article 47 Code of Fiscal Procedure):

- a) The name of the issuing tax body;
- b) The name and surname of the person who made the display and its function;
- c) Name, surname and fiscal address of the person notified;
- d) The name, the number and the date of issue of the fiscal administrative act in connection with which the notification is made;
- e) Year, month, day, and time when the impression was made;
- f) Mention of the date when the fiscal administrative act is considered to be communicated, according to par. (10) or (11) article 47 Code of Fiscal Procedure;
- g) The signature of the person who posted the notice.

Thirdly, according to par. (13) article 47 Code of Fiscal Procedure, the fiscal administrative act issued in paper form may also be communicated *by surrender, under signature, to the headquarters of the issuing tax body* whenever the taxpayer/payer or the empowered person or the curator *presents themselves at the headquarters of the fiscal body and requests this*.

Finally, according to par. (12) article 47 Code of Fiscal Procedure, whenever the communication is made by advertising or by displaying the notice, the fiscal body shall draw up a report. The report is also drawn up when the taxpayer/payer or their empowered person or curator receives the fiscal administrative act, but refuses to sign the delivery receipt or, for good reason, cannot sign it.

Conclusion

The fiscal administrative act has an important place within the Romanian tax system, it can be considered a “basic cell” of the tax system. And, for its role to be accomplished, thereby to establish an

individual situation and to produce legal effects to the person to whom it is addressed, it must exist legally not just physically, in other words, it must be communicated according to the law.

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The Art of Fake

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ABSTRACT: It was Plato who defined the meaning and metaphysical value of Beauty in a way which was valid for all types of Arts, emphasizing on the concept of “Mimesis”. This aesthetic principle, developed mainly during ancient times, states that art represents an imitation of the real world. If criminal expertise of hand-writing has as its subject the study of handwriting based on scientific evidence regarding the graphics skills with the aim of identifying the author, can we consider counterfeiting of historical evidence as a form of art? Both in the case of hand-writing and works of art, there occur anatomo-physiological and psychological peculiarities specific to their author, the complex conditioned reflexes, and the dynamic stereotype which define a certain individual. Thus, the author of the fake needs to have the ability and training to accurately render the characteristics of the original.

KEYWORDS: art, fake, imitation, hand-writing, peculiarities

Introduction

The written documents, as well as the art creations, have a special importance in the judicial, social, economic and cultural domains. They can certify events which can be of great significance and because of this reason it is important to have the certainty that they are original and not created through false means.

The social danger appears when the false means are used in order to commit or hide some crimes. If the writing criminalistic expertise has as object the study of the writing based on the speciality acknowledgments regarding the graphic habits, for the purpose of identifying the author, can we frame the historical document counterfeiting by imitation in the art category?

Plato, the one who established the metaphysical sense and value of beauty in a valid manner for all types of arts, granted a major importance to the “mimesis” concept. This aesthetical principle, developed especially in the Antiquity, considers that art represents an imitation of the real.

The art of fake

Since the beginnings of the humankind and until the present, the writing and graphics have represented the main of communication modes. Since the ancient hieroglyphs and the cuneiform writings, these fascinating inventions of the human were raised to the level of art and all the descriptions until now continue to amaze us.

The hieroglyphic writing is the first writing which appeared and was predominantly pictographic. The Maya hieroglyphs were brought to life by the Maya civilisation, who used logograms and glyphs, painted on ceramics or walls. The Hieratical writing was similar to the hieroglyphic one and was used in trading and administrative documents, literary or scientific works.

At the same time with the evolution of the human, important transformations took place both in the graphic and the writing domain. The works became ever more complex, thus in time it became necessary to set some principles which lay at the basis of the work’s expertise. However, with all these rules created, a series of difficulties in expertising appeared.

There were cases in which the great collectors also purchased also copies made after the original works, these being carried out even at their order. The author of the fake was proposing the imitation of the painting manner, especially in regard to the work technique and composition specific to the author of the original painting.

The authenticity of many paintings was insured via rumours that they belonged to famous collections. Most of the experts who signed the authenticity certificates were most often persons surrounding the artist, even members of his/her family. The experts were also coming also from the

category of the art critics or historians who certified through signatures on the back of the work that those were not fakes.

Regarding the false painting, among the most frequent falsification manners we mention copying after the model, imitation of the manner to paint, especially with regard to the work technique and the composition, specific to a great master (Stancu 2015, 341). Signing a work as identification document appeared only in the 16th century. In that period copying after a model was not something unusual, the apprentices considering this practice a eulogy brought to the artist and not a fraud at all.

Many times, signatures were provided on imitations of the works of art in uncertain situations which could not be later explained by the specialists because, at that time, the technical expertising means were not sufficiently developed. Moreover, there were also experts who, in exchange for an amount of money, certified a false art work of art as being original.

When falsifying art works, counterfeiting the signature appears either as a complementary element accompanying other fraudulent manners (copying after a model, assembly some copied fragments after several authentic works, imitating a master etc.), wither as unique operation through which a worthless painting is transformed in "original" just by adding a false signature (Ionescu and Buzatu 2009, 22). Signing a historical document or an art work equates most of the times with its certification because it is considered that these have certain features specific to the author and they no longer require confirmation.

Within the writing notion are included also the non-literary graphic signs such as the punctuation signs, underlining, signs accompanying the numbers etc. Although, at the first glimpse, these seem to have a rather simple construction, there are cases when their formation is bodacious, thus identifying some features belonging to a certain author.

Therefore, we can clearly see that the particularity of the writing is not limited only to the alphabetical writing, but includes all the forms of the graphic manifestation of a person, and thus can form the object of an identification even the features of a drawing, being desired that the drawings used for comparison to come from the same period since the manner of writing or drawing can change from one period to another.

The writing expertise must not be reduced only to the materialisation of the inscribing gestures by ink, crayon etc. features. There are cases, more rarely, in which the object of the expertise forms a concrete writing only in the traces of the depth, produced following a pressure transmission, on another sheet of a historical document carried out in normal conditions.

The falsifying manners of a historical document, no matter the procedures used, are divided in two categories: by changing an existing written document and by manufacturing a fictitious written document. The falsified historical documents can be of the public or private type (charters, books, manuscripts, journals, proclamations, as well as documents issued by the institutions of that period).

Falsifying the documents appeared at the same time with the writing creation. The falsifiers derived from people who knew how to write and read, grammarians, members of the Chancellery, monasteries, etc. They used the calligraphic writing which is considered the art of handwriting. Using this type of writing allowed them to create works of art by arranging some symbols on the paper in a special manner with the help of the writing instrument used.

Both the writing of a historical document as well as the painting of a tableau represents a manner for fixing and communication some ideas and constitutes an intellectual habit by forming a personal style. The physiological mechanism is provided by the complex of temporary nervous links and the conditioned reflexive links.

According to Pavlov's theory, at the level of the brain cortex, the fundamental processes are permanently systematised. The irradiation phenomena of the excitation from the weaker to the stronger vortex and of the concentration of the two types of nerve processes, as well as their reciprocal induction, takes place the particular stabilisation and learning phenomena of an action. This way, it is formed a complex of temporary links occurs, manifesting themselves as a stable reaction with a unitary feature. This stereotype requires numerous repetitions so that, over time,

takes place a fixating process of the features regarding the writing of a document or the creation of some art works, these actions becoming automatized.

The executing organs, the hand and the arm, are placed in action being led and controlled by the centralised nervous system which regulates the muscular tonus, but it must be considered that these automatized actions do not fully exclude the acknowledgement of the action.

If writing a document and creating an art work is the result of some complex nervous processes by moving the arm and the hand, these can be influenced also by the abnormal physiological state which can be due to some disorders, from the simplest ones produced by cold, tiredness, depressive state, up to the severe chronic diseases or mental illness.

Both in the case of fake documents as well as the works of art, the expertise imposes, in addition to the examination under the artistical aspect, a complex criminalistic investigation in order to establish the age, pigmentation and features of the paper and the inks used.

To begin with, it is considered an analysis with regard to the history of the artistic work or document and of the author. The information based on which a certain work is attributed to an era allows for the restriction of the investigations to a certain group and the delimitation of the technical and scientific expertise only to the strictly necessary operations.

To start with, an analysis is carried out with regard to the history of the artistical work or of the document and its author. Once obtained this information, the analysed works are attributed to a period, thus the investigations will be restricted to a certain group of persons and the technical and scientific expertise will be limited only to the necessary operations.

It is not less true that by examining the signatures on the paintings a certain specificity is presented in comparison to the signatures on the documents (documents). Although in both cases, the expertise is based on the same principles and methods, in addition, it is resorted to a series of procedures and connections imposed by the exigencies of the visual arts' expression and by the particularities of the instrument, the writing substance and support on which the signature is placed, are also used. (Ionescu and Buzatu 2009, 21)

In the following stages, it is proceeded to the optical examinations, in visible and invisible, ultraviolet and infrared radiations, to micro-chemical examinations and physical and chemical analysis, more frequently being the micro-spectrometry, the electronic microscopy with deflection, coupled with the micro-analysis, fluorescence in the "X" ray, microscopy with laser stimulation being more frequent (Pfeferli 1983, 209).

Albert Osborn (1858-1946), within the first complete expertise treaty of the documents, *Questioned Documents*, exemplifies that "thousand of these features are individual creations and developments".

Both in the case of writing as well as the works of art, particularities appear such as the anatomical and physiological, psychic ones, the conditioned reflexes complex and the dynamic stereotype appear. All these epitomise the individuality of the author.

The person falsifying must have the capacity and necessary training to render closely all the particularities of the original document.

We can observe that all the special features of the writing or of a work of art represents the total of the personal habits of the person manifested in the construction of the work formed from the graphic signs. All the scriptural and graphic forms in a document of art work are, mainly, non-repeatable for another author due to the execution details and the combinations carried out.

In the case in which the construction level of a falsified work does not comply with the characteristic features of the original's author or personal graphic involuntary features are included, upon a scientific examination using advanced technical means, it will be able to emphasize the mistakes in more elaborate constructions of the falsified works.

Due to this reason, the special features are generally better noticed and reproduced by the falsifying persons such that imitation can, sometimes, reach striking similarities with the original.

Conclusions

Thus, we can say that there were works of art for which the fake could not be proven and the same thing was acknowledged also in the case of some historical documents fully imitated, these being declared authentic by some experts because they stated that it is impossible to carry out the expertise or, if they carry it out, it is impossible for them to declare it authentic or not (Frăţila and Constantin 2000, 78). Due to this reason, we can consider that the author of a false historical document was born with this special talent or that this talent was later on developed through intensive study, exercise, patience and perseverance, and, in the end, his/her capacity to build an identical work with the original one imposed the loyal compliance with all the particularities of the original work, which raises the perfect imitation to the rank of “*ART OF FAKE*.” You enter the world of the work of art, you are surrounded by emotions connected to a masterpiece, you feel touching your soul, it fascinates you and, in your mind, natural questions arise regarding the author, the period when it was created, the work technique. You smile full of admiration... you consider it perfect... yet among the multitude of questions which arise in your mind, a new question that you have not thought until then rises and you become thoughtful... “Is it original?”

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Literary Archetypes Between Universal Myth and Historical Moment: Shelley's *Frankenstein*

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ABSTRACT: This research uses Mary Shelley's *Frankenstein* as an anchor to look back and forth between the novel and the precursor texts and themes on which Shelley both draws and which she also transforms in light of the critical influences of her historical moment, straddling as it did a transition from the rationalism of the Enlightenment to the emotional, social and creative energies unleashed by Romanticism. This paper focuses on the themes of transgression, fear, isolation, damnation and redemption, and their importance in outlining the journeys of Victor Frankenstein and the monster he created, as well as other related works in history. The major comparisons in this research are that of *Frankenstein* with the archetypal figure of Prometheus, 'The Rime of the Ancient Mariner', and *Paradise Lost*. The first was directly referenced by Mary Shelley in the allusions of Walton and Victor Frankenstein, and the latter is the epigraph of the book, which appears as one of the books that shaped the Monster's education. Stemming from 'The Rime of the Ancient Mariner', the Wandering Jew and the biblical Cain and Abel story are extended archetypes, further showing traits that could be found among the Mariner, Frankenstein, the Monster, and Satan, forming an interconnected web that weaves all these characters together. *Frankenstein* is also known as the 'Modern Prometheus': through her writing, Mary Shelley aimed to historicize and reconceptualize universalist assumptions about the nature and relevance of archetypes in literature. By historicizing the role of Prometheus and imbuing it in Victor Frankenstein, Shelley portrayed the figure of an ambitious scientist who assumed the role of God and disregarded the law of nature. She characterized Victor such that his traits resemble those of Prometheus, yet far from reproducing an idealized archetype, Shelley brings a Greek myth down to earth, transforming it so that it can speak to the people of her time. This paper reads *Frankenstein* in relation to how its context transforms the universalist archetypes on which Shelley drew to give her characters and themes literary depth and texture. Shelley inflects Victor Frankenstein and his Monster with traits associated with the archetypal figures of Prometheus, Satan, and the Ancient Mariner, simultaneously relating the resulting hybrid characters to the pressing concerns of her particular historical moment and demonstrating that universal archetypes continue to be rich sources both for the creative process and for bringing perennial themes to life for successive generations of readers.

KEYWORDS: Archetypes, Cain, Edmund Burke, Enlightenment in literature, Frankenstein, French Revolution, Mary Shelley, Prometheus, *Paradise Lost*, Romanticism, Satan, Samuel Taylor Coleridge, *The Rime of the Ancient Mariner*, Wandering Jew

Introduction

Mary Shelley's *Frankenstein* celebrated its 200th anniversary in 2018. Her work, and the characters of Frankenstein and his Monster, have cast an incalculable influence over popular culture for the last century, inspiring numerous novels, films, video games, and graphic art. The Monster has become one of the most well-known icons of horror. When writing her novel, Shelley imbues the Monster with, instead of total villainous intentions, an ambiguous character. He is both a victim and victimizer, which demonstrates that one of Shelley's main goals is to historicize and reconceptualize our assumptions about the nature of myths and claim that archetypes are not either/or like human beings; they are complicated, limited, capable of both good and evil. Ultimately, they are obliged to accept their limitations, recognize the impossibility of seeking transcendence from God, and realize there's no absolute redemption. Using archetypal figures such as the Ancient Mariner, Prometheus, and Satan, Shelley examines universal themes in light of the influence of her own contemporary context.

Shelley lived in the time of the French Revolution, a period characterized by radical hope and conservative fears, as is revealed in the famous debates over the Revolution. The conservatives feared change while not rejecting it, imbuing the idea of monsterism with anti-social radical motives as a warning to the people and to an ordered society. Edmund Burke, a conservative, wrote, "[t]he portentous state of France-where the Elements which compose Human Society seem all to be

dissolved, and the world of monsters to be produced in the place of it” (Botting 1990, 22-41). Here, Burke forms a link between social radicalism and the idea of the monster. He fears the possibility of anarchy and believes that two types of monsterism, the mob and the individuals, plague society. The mob is contrary to civilization because it’s ruled by passions; the individual is also contrary to civilization because he has no obligation to society: he is isolated and drawn only to himself.

Burke’s quote begins with “portentous”, which means ‘to warn’, a meaning which parallels the etymology of “monster”, from “monere”, which means ‘to warn’ in Latin. The fact that *Frankenstein* features a monster as its anti-hero is evidence that Shelley is referencing the symbolism of monsterism which was exploited by Burke. The idea of monsterism as uniting opposing characteristics was passed onto Shelley; after all, she characterizes Victor as monstrous in his scientific ambition and in his neglect of his creation, and the creature as monstrous in the way he takes revenge against Victor’s neglect. The figure of the Monster, personified as Satan, has initially an urge for companionship and equality of treatment, but also arouses conservative fears since the Monster can disrupt the order of things. This is a message Shelley wants to communicate by the Monster character as a moral trait but also as a metaphor for her times.

The Prometheus Archetype

Mary Shelley wrote *Frankenstein* at a time between two major historical periods: the Enlightenment and Romanticism. The Enlightenment argued that reason is the essential aspect of life, whereas Romanticism was a movement against that way of thinking and emphasized the emotions. There is a tension between the two ideals within the novel since *Frankenstein* dramatizes the moral implications of the tension between reason and emotion, which is paralleled in the respective historical moments. The Enlightenment marks a period of a rise of acquisition of knowledge and radical ambition in the scientific and social realms which contrasts with the emphasis on human emotion, the sublime power of nature, and the autonomy of the individual creative impulse as valorized by Romanticism.

An essential motif of the Enlightenment is light. *Frankenstein* dramatically emphasizes imagery of light and darkness. When talking about his obsession with science, Victor indicates his desire to break through the line between life and death and proves to everyone what they failed to see: “Life and death appeared to me ideal bounds, which I should first break through, and pour a torrent of light into our dark world” (Shelley 1818, 54; Botting 1990). He talks in the tone of an omnipotent creator, as if imitating the biblical God: “Let there be light, and there was light” (Genesis, 1:3). Frankenstein assumes that position by comparing his influence to that of a ray of light, which brings into our knowledge what was previously obscured by ignorance. Here, the concepts of ignorance and knowledge form a binary opposition: knowledge is privileged over ignorance, light over darkness. The Enlightenment era’s emphasis on light also parallels the fire motif in the Prometheus story (Shelley 1818). The light used thus symbolizes a revelation of knowledge and truth. Under the influence of both the Enlightenment and Prometheus, Shelley used the element of light and drew connections between the monster and Prometheus in multiple ways, both in literary and symbolic senses. Prometheus defied the Gods’ monopoly over fire and granted this power to mankind to trigger fire; under Mary Shelley’s pen, Victor’s action forms a parallel to that of Prometheus’s because the life Victor creates is generated through galvanism (Brunel 1995, 968-981), and the sparks of electricity share an imagistic quality with fire. The Monster’s first encounter with fire was that of an ignorant infant’s reaction: “One day, when I was oppressed by cold, I found a fire which had been left by some wandering beggars, and was overcome with delight at the warmth I experienced from it. In my joy I thrust my hand into the live embers, but quickly drew it out again with a cry of pain” (Shelley 1818, 120). The Monster’s description of his action reveals his ignorance of the elements of human life: “overcome,” “thrust,” “cry of pain” reveal his ignorance, and the words suggests a humanized response of the monster archetype, as if assimilating him with the primitive human to whom Prometheus has given the fire. The Monster sees this fire for the first time and has no concept of the danger hidden inside the warmth. The immediate quality that he associates with fire is its power to warm, which connotes its the positive feature. But the very power fire has to warm carries with it the contrary power to wound. The

paradoxical nature of fire shows that there's an immediate consequence for the treasured object that Prometheus and Victor steal. Victor has appropriated power from the gods: his creation of life through electricity is intended to parallel Prometheus's stealing of fire from the Gods. The quote showcases the Monster's experience becoming a metaphor for discovery, by which potentially uncontrollable dangers may be revealed. He went through both thrill and horror, and both pleasure and pain, which the creator himself experienced in giving birth to his creature. Thus the Monster is duplicating the experience of the creator, because he's making a primal discovery about the inseparability of pleasure and pain just as Victor was himself overjoyed by his discovery of the spark of life and yet repelled by the very life that he creates. The Monster is as if a projection of all the repressed emotions in Victor. Even though he wants to deny his kinship with the Monster, Shelley keeps offering motifs and imagery which draw out the inseparability of creator and creature. The Monster's primal scene of discovering fire symbolizes such inseparability: moral paradox, the notion that pleasure can create pain and vice versa, and that good cannot be wholly separated from evil, challenges the Enlightenment ideal of rationality and its ambition to engineer a society which is free from pain and immorality.

The Monster, though intrigued and troubled by his discovery of fire, learns to adapt to its power by closely observing its properties. We could easily trace his line of thinking and deduction: "I examined the materials of the fire, and to my joy found it to be composed of wood. I quickly collected some branches, but they were wet and would not burn. I was pained at this and sat still watching the operation of the fire." Here, he again reveals traits of his creator. The Monster is the primitive savage, duplicating Victor, the sophisticated scientist, in his action of "collecting" branches in order to succeed in building a fire, just as Victor was collecting body parts from slaughterhouses. His action is reminiscent of that of a man on the path to full truth, answers, and enlightenment. Through painstakingly figuring out an issue by himself, the Monster shows his desire to learn and grasp the truth, a desire which typifies the Enlightenment. There are two levels of truths expressed here, though: one is the empirical level—the properties of the natural, physical world, such as wet wood won't burn, and therefore fire can be put out by water. The other is the moral and philosophical level—the realization that acquiring knowledge of nature won't necessarily lead to happiness. Frankenstein's story proves that empirical *facts* do not straightforwardly track moral truth. The novel thus makes a powerful point about the limitations of human capacity. With all the knowledge he learned, Frankenstein ultimately does not have the power to alter the natural world or to control what he creates with his knowledge. Scientific knowledge helped him create because he understood the properties of galvanism, alchemy, and anatomy, but he doesn't have total control over the moral consequences. Similarly, the Monster enjoys the warmth of fire, yet is pained at the fact that he can't control it.

Dualism

The ambiguity and dualism at the center of the Promethean archetype recurs in Victor Frankenstein, too. Prometheus' ambiguity is portrayed through a relativizing of perspectives on his nature and achievements. Humans see Prometheus as a martyr for a moral cause, yet he is a rebel figure to Zeus. The consequence he faces as a result of this dualistic perspective is that he becomes the victim of Zeus' anger but suffers for the benefit of mankind. Similarly, Victor compares himself to both God and Satan, associating himself with two characters at opposing ends of the moral spectrum. On the one hand, he does God's work by creating a man, but on the other hand, he has the devil's motives, which are excessive pride and the desire to wield power: "All my speculations and hopes are as nothing, and like the archangel who aspired to omnipotence, I am chained in an eternal hell" (Shelley 1818, 261). The archangel is a direct allusion to Satan who stole what only God's grace could offer and who suffers the moral consequence of his ambition rather than enjoying the rival power with which he challenges God's omnipotence. While in Prometheus's case the human is the beneficiary, no one in particular in Frankenstein's story gains benefits from his suffering. However, from a meta-literary point of thinking, we, as readers, are the receivers of the cautionary moral his tale grants. As will be shown later in this paper, this meta-literary effect is similarly in play in the relationship which the Ancient Mariner shares

with its readers. On the level of discourse between writer and readers, the Mariner was able to gain relief because of the fact that we as readers continued to listen to his story. We learn from and recognize the lessons from the Ancient Mariner's sin as well as Frankenstein's Promethean ambition to play God.

Defiance of Nature

The Promethean archetype is also reflected in Frankenstein by the themes of hubris and defiance. There are three types of defiance of nature Shelley showcased, including defiance against natural morality, human nature, and the literal natural landscape.

Victor transgressed morally by abandoning his creature and denying his responsibility as a parent. "...Breathless horror and disgust filled my heart. Unable to endure the aspect of the being I had created, I rushed out of the room and continued a long time traversing my bed-chamber" (Shelley 1818, 59) He was terrified at the sight of the Monster, and at that moment he forgot about his responsibility as parent. He chose an unnatural path by intentionally neglecting his child. His action reflects the Enlightenment ideal of rationality, the type of reason unsoftened by human sentiment. His rationality is further supported with his choice of social status over family obligations. In the same way he expresses awe in the face of the powers of nature, Victor respects human nature in society due to the individuals who had obtained esteem, reputation, the ability to elicit awe, and—in Frankenstein's wildest vision—capable of doing the most Promethean thing, to create life and play the role of God. The consequence of this view is that he is denied natural companionship, thus leading to corrupting isolation. "I threw myself into the chaise that was to convey me away and indulged in the most melancholy reflections. I, who had never been surrounded by amiable companions, continually engaged in endeavoring to bestow mutual pleasure—I was now alone"(Shelley 1818, 42). Victor says this after his mother dies, and he was able to continue his education in University. Victor preferred obsessively to pursue science and neglect social relations, thus excluding himself from the community.

Victor's defiance of nature is also showcased in the sense of human nature. He views human nature as mechanistic: a human being is simply the sum of anatomical parts with additional hints of animation, demonstrated by his labor in collecting and piecing together parts of human bodies from slaughter houses. Thus, human beings are almost like mechanical objects, which could function as long as everything is correctly, scientifically, pieced together. Because he devalues moral depth in human life, Victor's only way of feeling self-complete is to acquire bits and pieces, whether it is body parts, reputation, or knowledge. He perceives knowledge as simply separate fields: he investigates separately in chemistry, biology, and galvanism. Without grasping the full picture, Victor reduces the value of human nature to the capacity simply to acquire a social reputation and denies the fact that he is one individual living with other human beings just like him. He fails to recognize that the creature has a moral life and thus natural needs. The rhetorical figure by which his mechanistic conception of human nature is conveyed is that of the doppelgänger. Victor and the Monster are doppelgängers because each symbolizes fragmentation, one psychological, one physical. The Monster yearns for psychological wholeness though physically he is an aggregate of parts. And Victor, the whole physical human person, is repelled by relations. "I thought that the fiend followed me and might expedite my remissness by murdering my companion" (Shelley 1818, 197). In a way, Victor even anticipates the Monster's line of thoughts, contemplating vicious acts of murder and a wish to be left alone. This moment of synchronized mind shows the doubling between Victor and his creation.

Victor's controlling character is another example of his defiance of human nature, since he treats others as possessions rather than independent human beings. Such an urge began as early as the day he met Elizabeth, to whom his mother referred as a gift to him to love and care for. Victor's hubris thus denies him the chance to bridge relationships with the independent thoughts of other people. Paradoxically, however, he himself is portrayed as being controlled by the urban, social environment as if he's a prey in the face of predators. His hubristic ambition to control human nature is punished by his vulnerability in the context of the urban, social world: "Melancholy followed, but by degrees I gained a clear conception of my miseries and situation and was then

released from my prison. For they had called me mad, and during many months, as I understood, a solitary cell had been my habituation” (Shelley 1818, 245) When Victor decides to tell the Magistrate about the creature, people think him insane and they lock him away. Society rejects him and sees him as a delirious, mad scientist, thus denying him the cooperative and social symbols of human nature, which consequently reduced him to the state of prey.

The third aspect of nature is in the literal sense—landscape. Victor’s relationship to the world is binary, where he either exercises control or is controlled. In the urban world, he is a being controlled, yet he achieves existential peace in the midst of awesome natural landscapes. The fact that he seeks belonging in nature is compensation for his inability to belong to and among other human beings. The fact that Victor tends to compartmentalize the notion of human nature as a mere amalgam of parts is paralleled by the idea that the world itself is an aggregation of two separate entities, the social and natural worlds. Lacking an integrated gestalt view of the world, Victor sees his own nature, his morbid impulses of studying dead bodies alone for two years, as consistent with the inhospitable environment around him.

Satan figure

Wandering in the forest and suffering from hunger, cold, and confusion, the Monster picks up three classics, one of which is John Milton’s 17th century epic poem, *Paradise Lost* (Holmes 2016, 49-492). Milton’s purpose is to “justify the ways of God to man” (Milton 2004, l. 26), but the most vivid and dramatic character in the poem is the Satan figure. Therefore, the Satanic character became a major influence in the Monster’s path of education and in shaping his view of humanity.

The Monster had compared himself to Adam, “Like Adam, I was apparently united by no link to any other being in existence” (Shelley 1818, 154) drawing the commonality that both of them were the first creation of their kinds with no genealogy, no partners, no families to them company or to muffle their loneliness. Yet he felt more connected to Satan, “Many times I considered Satan as the fitter emblem of my condition, for often, like him, when I viewed the bliss of my protectors, the bitter gall of envy rose within me.”

Possessing traits of both characters, the monster went through a transition from Adam to Satan. He draws an analogy between his predicament and Adam’s and accentuates the fact that the creator created him with nothing. When the Monster sought natural affections, he was rejected: “Everywhere I see bliss, from which I alone am irrevocably excluded. I was benevolent and good; misery made me a fiend” (Shelley 1818, 114) He changed from someone who was to be born as a perfect creation, to a Monster who committed murder. His own nature became inherently evil because of his ambition to make evil his good. He said, “I had cast off all feeling, subdued all anguish, to riot in the excess of my despair. Evil thenceforth became my good. Urged thus far, I had no choice but to adapt my nature to an element which I had willingly chosen” (Shelley 1818, 273) The transition point is almost predetermined: the fact that he was born with nothing and had a natural impulse to seek what he lacks, yet was rejected, is an undertone of him developing into a Satanic character.

In the *Inferno* of Dante Alighieri (1935), the ninth level of Hell where Satan resides is a frozen region where traitors are damned: “With their muzzles above water, so in a like state, ere the sad, livid souls surged in this iciest of places up to where shame is expressed. Their teeth chattering away like the harshest click of storks’ beaks” (Milton 2004). The image of ice is a direct opposition to God’s love and grace, thus symbolizing isolation and damnation. *Frankenstein* utilizes the ice motif in the arctic scenes where Walton travels, Victor chases the monster, and where the Monster’s life ends. Likewise, the ice motif is used in Samuel Coleridge’s ‘The Rime of the Ancient Mariner’, at the beginning as the ship was sailing through the arctic, “The ice was here, the ice was there / The ice was all around: / It cracked and growled, and roared and howled, / Like noises in a swound!” (Coleridge 1970, ll. 59-62; Brunel 1995, 1008-1025). The Ancient Mariner archetype was adapted by Shelley in *Frankenstein*, Coleridge’s character reflecting aspects of both Victor and the Monster.

‘The Rime of the Ancient Mariner’

The quotes referenced by Mary Shelley from ‘The Ancient Mariner’ first appear in the first narrative frame of *Frankenstein*, which is the epistolary part, among the letters written by Walton to his sister. “I am going to unexplored regions, to “the land of mist and snow,” but I shall kill no albatross; therefore do not be alarmed for my safety or if I should come back to you as worn and woeful as the ancient Mariner” (Shelley 1818, 10). This quote expresses his concern over the hazardous environment. The same Arctic setting with ‘The Ancient Mariner’ makes the two characters seem comparable and similar, yet Walton’s quote expresses a sense of confidence, consciously separating himself from the Mariner character. Walton, the natural philosopher, describes his adventure in a way that it almost seems like he is unconsciously desiring to have his humanity dwarfed by sublimity. His words showcase fascination with and excitement by the unknown, “[i]t is impossible to communicate to you a conception of the trembling sensation, half pleasurable and half fearful...” (Shelley 1818, 10). The arctic landscape minimizes human’s importance and emphasize the presence of a higher power. The “trembling” indicates fear that accompanies the will to explore undiscovered realms. Instead of backing down, Walton was motivated by these sensations, almost urged to be exposed to the awesome and terrifying. By referencing the albatross, Walton appears as a foil who consciously uses the ancient mariner’s character to contrast with himself. Despite that, however, the reference ironically foreshadows the curse and transgression which falls on Frankenstein, who is seeking scientific sublimity by breaking the borders of knowledge.

Walton’s letters also pose a contrast with the character of the Mariner. The letters from Walton to his sister shows the family subplot, invoking trust, mutual care, and reliance. Thus, in contrast to the ancient mariner, who is divorced from family and companionship, “the land of mist and snow” for Walton brings out themes of love and tenderness; for the Mariner it generates a sense of despair and isolation. Mary Shelly sets up a contrast between Walton and the Mariner, but the contrast disappears when moving on to Victor, who shares its emotions and fate with the Mariner.

The next important reference is in the middle narrative frame, where the focus shifts to Victor’s recounting his story, namely his obsession with constructing life from matter. As soon as the creature wakes up, Victor is repelled by it and flees the scene, wandering around the streets of Ingolstadt. “My heart palpitated in the sickness of fear, and I hurried on with irregular steps, not daring to look about me” (Shelley 1818, 61). This brings about his awareness of a moral conscience: he’s scared to turn around to face it. The trope of turning captures the theme of transgression that arises as a result of his deeds. Continuously walking the street, Victor quotes directly from the Mariner, “Like one who, on a lonesome road, doth walk in fear and dread, and, having once turned round, walks on, and turns no more his head; because he knows a frightful fiend, doth close behind him tread—”(Coleridge 1970, ll. 446-451). Here, the previous juxtaposition of Walton and the Mariner intensifies the effects of such a direct quote from the Mariner, stressing his dire predicament. Even before creating the Monster, Victor was isolated, anti-social, a person who intentionally distanced himself from his own family. Having committed such deeds, this quote emphasizes his loneliness, the fact that he has no one to turn to for consolation and support, and his great sense of insecurity, which points out how he constantly looks over his back, feeling ashamed, guilty, and fearful.

The third narrative frame contains the Monster’s voice. The overall focus of this frame revolves around isolation, rejection, and confusion. The Monster expresses his sense of abandonment and hopelessness by saying, “I was dependent on none and related to none. The path of my departure was free, and there was none to lament my annihilation. My person was hideous and my stature gigantic. What did this mean? Who was I?” (Coleridge 1970, l. 152). The idea of abandonment reflects the idea that the creator abandoned his creation, and thus relates to moments where the Mariner felt so desperate that he believes God had left him: “Alone on a wide wide sea: So lonely ‘twas, that God himself scarce seemed there to be.” (Coleridge 1970, ll. 597-600) To be without hope is equal to being outside of God’s grace. Both the Mariner and the Monster feel abandoned by their creators.

At the thematic level of the novel's organization, we've encountered isolation in the first narrative frame, fear and transgression in the second, and abandonment and rejection in the third. The same could be said for *Mariner*, who goes through a similar journey to the monster. Ultimately, both Shelley and Coleridge use the theme of damnation as a major undertone to their stories and raise the question of whether there exists a redemption or not; one way through which they did so was through the use of water. There is an inner reference to the *Mariner* by the Monster: "I had already been out many hours, and felt the tournament of a burning thirst" (Shelley 1818, 211). Compare this to a complaint by the *Mariner*: "Water, water everywhere, nor any drop to drink" (Coleridge 1970, 1.121-122). The quote alludes to Satan's lair again, the ice-filled level of Hell; this implies the eternal damnation of constantly feeling thirsty. By stating that the Monster and *Mariner* both feel deprived of water, receiving the same punishment as the most evil form of existence, the authors affirm the theme of damnation.

Not only does the *Mariner* share traits with the Monster, he also resembles the character of Victor. Both of their own natures are not transparent to them. The act of denying God's grace could be traced all the way back to Adam and Eve, whose motivations were given by the snake morphed by Satan. In contrast, however, the motivations of the *Mariner* are ambiguous. The Albatross's last words were a question: "—Why look'st thou so?" (Coleridge 1970, l. 81) signifying what the situation symbolizes is perplexing. The question brings out the image that the Albatross is baffled by the sinister, violent, and homicidal look on the *Mariner*'s face, it doesn't understand. At this moment, the reader is positioned in the place of an active interpreter because the absence of a direct description of the *Mariner*'s face raises the questions of his intentions and character. The killing of the albatross indicates the *Mariner*'s need to carve the boundaries of the known and unknown, and establishing certainty. The albatross is a divine benefaction but also a undeniable reminder of a transcendently ordered universe: it's that order which the *Mariner* is unconsciously rebelling against. This trait in the *Mariner* was referenced by Shelley for her character Victor, both of whom denied a higher order as Adam and Eve did. Frankenstein violates the rules of nature and assumes the position of God. When talking about his and Elizabeth's differences in interests and disposition, Victor says, "The world was to me a secret which I desired to divine" (Shelley 1818, 31). The diction here both describes his urge to solve the secret riddles of natural science, but also ironically demonstrates that he's usurping the role of God. But instead of caring for his creation, he was frightened and scared. He crossed the boundary of the unknown and was too scared to take up the responsibility of its consequences. However, the reason behind his running away and the abandonment of the monster is unclear, just like the *Mariner*'s motivation for killing the albatross.

The Wandering Jew

The 'Ancient *Mariner*' is inflected in *Frankenstein* structurally and thematically. The structural inflection tracks the tripartite narrative framing, the thematic inflection looks on the way the *Mariner* draws on the archetypes of the Wandering Jew and of Cain.

The Wandering Jew (Brunel 1995, 826-834) is an archetypal figure reflecting themes of isolation, ostracism from society, and the compulsion to retell a tragic story of transgression. It shares nearly identical elements with 'The Ancient *Mariner*', and it acts as a trope for the narrative process itself in *Frankenstein*. The Wandering Jew was believed by Christians to be someone who indirectly killed God by denying and slapping Christ. The same crime could be held against the *Mariner*, who uses a crossbow (a Christian motif) to kill the Albatross, forming a literal second crucifixion of Christ.

Cain

The second archetype Coleridge uses is Cain, [10]from the Book of Genesis (Gen. 4:1-16). As the first flesh and blood of Adam and Eve, he is responsible for the murder of Abel, which is recorded as the first murder, a result of fraternal rivalry. After committing the murder, Cain was condemned by God to wander the earth alone. 'Wanderings of Cain' was written by Coleridge in 1797 and served as the precursor of 'The Ancient *Mariner*' and a beginning of his interest in the origin of evil (Beyer 1956).

Consequently, the themes of isolation, transgression, and damnation flows through the ‘Ancient Mariner’ as they do for the Cain-Abel story. Both characters, through their actions, degraded themselves to the state of slaves, constantly rejected, passives beings at the mercy of others. To protect Cain from the wilderness which he fears, God left a mark on Cain to protect him from harm, which is similar to the marks or branding on slaves by their owners, who used the mark to identify and recapture runaway slaves and help the locals easily recognize their low identities. For the Mariner, he was condemned to have the dead Albatross hang around his neck, and the image could be related to that of a salve in chains. For both figures, people could immediately recognize them by their signifying motifs—the mark and the albatross, and as a result recognize their sins.

Cain is also filtered into *Frankenstein*: he resembles qualities of Victor, who also suffers the transgressing of moral limits and punishment thereafter. Both Cain and Victor tread into areas that were unexplored before and lie about their actions. Cain lied to God when being questioned on Abel’s whereabouts, “And he said, I know not: Am I my brother's keeper? This parallels Frankenstein’s justification of himself: his abandonment of the monster is almost implying, am I my creature’s keeper? In the case of Cain, God confronted him: “What hast thou done? the voice of thy brother's blood crieth unto me from the ground.”(Gen 4:9-10); as for Frankenstein, he felt disconnected from his friends because of his sin and the fact that he’s keeping the existence of the Monster a secret: “I saw plainly that he was surprised, but he never attempted to draw my secret from me; and although I loved him with a mixture of affection and reverence that knew no bounds, yet I could never persuade myself to confide to him that event which was so often present to my recollection” (Shelley 1818, 73). Here, Frankenstein expresses his inability to confess to his friend Henry Clerval, who is someone focused on morals, the complete opposite character of Frankenstein. Frankenstein is always trapped in his own consciousness of his sin; he cannot gain relief by confessing, and that denies him any capacity for brotherhood and companionship.

The Ancient Mariner’s Moral

The story starts with isolation, fear, and being overwhelmed by the wild and unpredictable Arctic. The act of transgression is the Mariner’s shooting of the albatross; for that, he receives punishment from the God, as well as eternal damnation—a compulsion to tell stories to those whom he deems necessary to listen. The damnation is qualified by a stoical “wisdom”, meaning the stoical acceptance of suffering without any transcendental redemption, thus it merely signals the acceptance of his exclusion from God’s mercy and grace. Overall, ‘The Ancient Mariner’ revolves on two mysteries. One, why did the Mariner kill the albatross; two, is he eternally damned by his action or does he receive redemption?

The Mariner’s story is one of rejection and alienation, but at the same time, it speaks to us as readers, as it captivates us with its language, plots, and myths. At the inner level, the poem showcases the possibility of hope for the guest, who is listening and taking away the cautionary moral. At the outer level, the frame of the discourse between Coleridge’s persona and us, the communication established between the writer and reader is what justified the use of archetypes. Because the universal application of archetypes in myths builds the relationship between writer and reader, giving the readers elements they could empathize with, and allows them to better comprehend the villains’ motives, sins, and regrets. The Mariner himself does not receive redemption, he’s always suspended in a constant state of agony and isolation, “and till my ghastly tale is told, /This heart within me burns” (Coleridge 1970, ll. 584-585), which makes the only way he could receive a redemption is if we listen. Recognizing an archetype in literature becomes *our* moral obligation, as if a plea *from* the archetype.

Frankenstein’s Moral

The moral transformation in Frankenstein's own self-conception—from brave scientific experimenter, exceeding the bounds of knowledge triumphantly, to fearful soul repelled by his own horrifying creation—is most vividly communicated by the bodily imagery and the symbol of his 'heart'. When Victor flees from his monster, he says: “my heart palpitated in the sickness of fear,” (Shelley 1818, 61) both contrasts with his own description of the “beautiful season” wherein his “heart and soul” were

engaged in the miraculous pursuit of creating life from inert matter, and also, in its emotive register of dread, ironically parallels the way Frankenstein described the “filth”, “profanity” and “loathing” of the “materials” he collected from the “charnel houses”, “dissecting rooms and slaughter-house” (Shelley 1818, 55) Frankenstein, in using the language of dread to describe his own reaction to his creation, ironically associates himself with the body of his monster itself, thus setting up the monster as his own double. This technique of doubling unconsciously generates a moral conscience in Frankenstein, which splits his self-conception between positive (triumphant scientist) and negative poles (moral transgressor; in a word, a monster).

The moment Victor succeeds scientifically is the very moment he fails morally. He becomes his own monster. The fact that Victor directly quotes ‘The Ancient Mariner’, demonstrates that, at the very moment when his moral conscience is aroused, he recalls an archetypal poetic figure who is renowned for his tortured moral conscience. Thus a vivid parallel is created. Existential isolation occasioned by the arousal of his moral conscience. Not a self-imposed isolation from society; rather, he experiences his moral conscience as an external force which is pursuing him as prey, as an object of admonishment and eventually punishment.

Conclusion

Archetypes are such a powerful technique for creating both an inter-textual universe in the world of novel, adding depth to characters by allusions to universal things. But perhaps most powerfully, archetypes in literature create inter-generational links between readers and writers, demonstrating how universal stories and symbols must be interpreted and inflected by the particular interests, concerns, and deepest problems of every generation.

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The Universality of the Right to Education - A New Perspective

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ABSTRACT: Against the backdrop of global change, and with a view to ensuring equal rights and freedoms for all, the need for deeper treatment of the universal nature of the right to education has emerged, while systematically preparing for quality education. The context of postmodern social development, global education policy outlines new priorities on equal opportunities, curriculum design, training organization, with a view to grounding a universal approach to all actors in the education process.

KEYWORDS: globalization, the legal nature, the right to education, the universal dimension

Introduction

Unprecedented changes in the world have led to an evolution on the international and European arena of human communities, through democratic reasons for the awareness of the right to education, an active and decisive asset in the valorizing the human being, in the development of a global diversity, to prefigure a society of common good.

The right to education and training is absolutely necessary in a democratic society and it must be a concern of all citizens by acquiring obligations to the own person, to the society in which we live, without any trace of “intolerance, without discrimination and negative competition” (The Human Rights Review 2015, 48).

Treated as an inherent side of the development of the human being, without Borders, a value of democratic society passed down from generation to generation, the right to education is the right, “without which mankind cannot acquire the valences of its ascension” (Vişan 2016, 30), a premise without which the other human rights cannot be exercised. I consider that, “no right granted to an individual who does not enjoy the apanage of education cannot, in itself, be accomplished, in the absence of a minimum degree of knowledge acquired” (Efrim 2014, 9), and also by its indivisibility, The right to education is considered “to be a tool for all human rights” (Meyer-Bisch 1998, para. 4).

Instrument and means of achieving and promoting fundamental human rights and freedoms, the right to education is focused on documents with national, regional and international legal value in the form of a right-freedom, guiding us the universal nature of all rights and the implication of education.

The universal vision of human rights is supported both by art. (1), All human beings are born free and equal in dignity and in rights” and art. (2) The Universal Declaration of Human Rights: “Every man may prevail over all rights and freedoms proclaimed (...) without distinction whatsoever (...)”, recognizing, permanent concern in defending and harnessing man, raising him in The light of all state and non-State actors. In this respect we can see that human value is born by virtue of freedom and equality acquired only through education, because, “an educated individual is a truly free individual” (Moroianu Zlătescu, Moş, Bulgaru 2016, 10) in the mind and in the senses. Behold, the right to education is the quintessential application of all other rights and freedoms, exercised through a complex process of becoming a human being, where education is the threshold between the sphere of natural man and the ancestral product of divine creation, through Self-knowledge and nutrition, “the need to be and become what the man has already been and is eager for perfection” (Şoitu 2016, 11).

The postmodernist period provides a new approach in terms of the universal nature of the right to education, “depending on the values considered priority for the construction of the

education system” (Cristea 2016, 62), where the universal educational objective identifies with fair education, promoting lifelong learning opportunities-lifelong learning.

The universal nature of the right to education has been analyzed by verifying compliance with the following conditions: universal validity and universal acceptance of that right, on the one hand, and the formal universality and material universality of the right to education, of the other part (Coomans 1992, 258-268). These conditions are found in a complex framework for the exercise of the right to education, globally by the fact that its role is stated as an inextricably element of the orientation and formation of the young generation, in the setting up of a strong society and the national, European and international decision-making process.

Capable of influencing human values and legal norms, education must be seen as an integral part of the global social system comprising functions such as: Social solidarity, social control, social evolution and competitiveness in the labor market. Centrally positioned, the education system favors social actions, which interactively and diversify relations between man and society (Jinga 1993, 13), thus ensuring the universality of the right to education.

Universal education policy

We believe that the right to education is the way to the ascension of knowledge and good understanding between peoples, a universal right, belonging to any citizen, a right involving joint common programs, permanent and adaptable to present and future transformations. Therefore, the right to education by affirming universal aims draws social stability and economic prosperity, with a view to establishing a global identity, supported by the common sense of universal affiliation, existing between citizens.

In order to substantiate a common space to support the construction of a future in education, we need the free awareness and perception of all fundamental human rights and freedoms, the elimination of social inequalities, the professional potential of all citizens. A main landmark of the exercise of the right to education in the national, European and international context is the application of broad-spectrum educational public policies in the implementation of an overall educational strategy for the training of Employment of young people in relation to labor market requirements.

In international practice there are two main strands in ensuring the universal policy of education: goal-oriented policy aimed at global strategic issues and problem-oriented policy focusing on specific issues which must be resolved and which are related to a specific policy area” (Cojocaru 2015, 6).

Purpose-oriented policy aim at exercising the right to education in all its forms (formal, non-formal, informal) and at all levels of education, characterized by a number of major elements, of crucial significance for the education process: *availability, accessibility, acceptability and adaptability* (UN General Assembly 1996, E/CN.4/1999/49, para. 50). The four elements are known as Scheme 4-A (UN General Assembly 1996) a universal, essentially interdisciplinary directive, as follows (Vătăman 2018):

- Availability relates to the provision of institutions and formal education program in sufficient quantities, in the jurisdiction of States parts of the universal educational policy.
- Accessibility ensures all individuals, participation in the education process through a non-discriminatory approach, a safe physical manner, or by participating in a convenient geographic location or through modern technology.
- Acceptability is the creation of an educational content, adapted to the psycho-pedagogical and age peculiarities of educators, with relevance to quality and efficiency.
- Adaptability gives education flexibility to respond to the needs of changing societies and communities within their various social and cultural settings.

Problem-oriented policy focus three key elements, which help to identify the main features of universal public policy (Lasswell 1951, 15):

- Interdisciplinary role in the application of methods and C In different areas, such as the study of political institutions, economic sciences, theory of organizations, law, sociology, psychology.

- The orientation towards solving problems is moving towards real world problems, seeking solutions for them.
- Normativity explicitly assumes that it cannot be absolutely objective (Bulai, 2004), where it is considered that policy science is aimed at “improving knowledge, necessary to improve the practice of democracy” (Miroiu 2001, 23).

According to these directions, a number of substantial changes are made at the level of priorities regarding the universal education policy with emphasis on: curriculum design, new forms of education organization, training based on new technologies (Coombs 1989, 8-29).

This kind of universal policy of education is supported both on a theoretical and ideological level by the construction of a global and European dimension of education (Cristea 2016, 70).

Today, the global dimension of education is aimed at forming a society that will be able to meet the anticipated needs of the future, guiding the commitment of political actors to concrete actions, which determines: the formation and outsourcing of respect, awareness and valorization of human dignity, interest in pressing problems, promoting and deepening the values of the contemporary democratic society: freedom, social justice, peace culture, equality, solidarity, responsibility, and last but not least, creating the conditions for establishing a sustainable and safe world (Vişan 2018b, 325).

At the same time, globalization of education is also highlighted by the ability of the social system to adapt to changes *in economic plan*-managerial leadership model, based on the valorization of existing resources, *in political plan*-the model of social, strategic democracy, of capitalizing on human resources and equalization of chances of success, *in cultural plan*-the model of computerization of social products, of the conduct of each human personality (Cristea 2016, 70). All these actions carried out in various plans and concretized in the objectives of global projects refer to strategies for establishing sustainable development, as a relevant commitment guaranteeing continuity and the permanence of education (Vişan 2018b, 326).

The permanent and unaltered nature of education provides the human being with unrestricted access to continuity in development and affirmability. The idea of continuity of education offers a new perspective to treat it as a right for the individual and accountability for the decision makers (Şoitu 2016, 11). The concept of accountability entails the unequivocal involvement of the decision makers of European and international education policies, highlighted by the adoption of global projects, of which we mention: Millennium Declaration 2000, the U.N. decade On education for Sustainable Development (2005-2014), the World Program on Human Rights Education (2005-2019), Agenda 2030 for Sustainable Development and Education Program 2030 (Vişan 2018b, 326).

The content of the international instruments/programs mentioned above, establishes the global dimension of education, supported by five pillars, similar to the key competences of the Learning Act: Learn to know, learn to learn, Learn to do, learn to exist, learn to live with others (Amariei, Buker, Castanheira, Cugler and Cugler 2016). Each of these competences highlights the plurivalent and transdisciplinary character, necessary for a changing world, where knowledge, skill, competence, cooperation and affirmability are the pillars of resistance of global education (Delors 2013), continuously adapted to new global civilizations (Cristea 2016, 67).

Focusing on the European dimension of education, we find an incentive for lifelong learning, which enhances employability, mobility and social integration in the labor market. In this respect, a link is created between formal, non-formal and informal learning by supporting flexible educational pathways, opening up to different areas of education. Therefore, a quality promotion of learning and professional orientation among adults requires the introduction of new forms of active learning using new technologies, thus ensuring transparency and innovation in deepening learning.

A particular emphasis in stimulating this type of learning is the mobility of learners, teachers and trainers that should be gradually expanded, so that learning periods in other countries – both in Europe and in the world – become the rule, and not just the exception (O.J. of E.U. 2009/C 119/02). Thus, there is a fair and equitable professional integration, possible by acquiring the key competences of all the beneficiaries of the education act. Their acquisition claims that the political

factors create a favorable climate, the exercise and assimilation of European policies directed mainly towards national ones, with greater emphasis on basic competences: literacy and increasing the attractiveness of science and technology, strengthening language skills.

Romania, as a Member State of the European Union, adopted on the recommendation of the European Parliament and the Council of the European Union the directives concerning the key competences of lifelong learning - "key competences for lifelong learning" (EUR-Lex 2006/962/EC, pp. 10-18), which outlines for graduates of lower and higher secondary education, a European training profile oriented on the formation of the eight key competences: communication in the mother tongue, communication in foreign languages, mathematical and basic skills in Sciences and technologies, digital skills, social and civic competences, entrepreneurial competences, spirit of initiative and cultural expression (Vişan 2014, 82), acquired through the reformation of the school curriculum.

The application of the European directives for the acquisition and deepening of the eight key competences of the young in pre-university education ensures a broad and useful perspective, a support of unit formation for the future development of some competences Specific professional objectives according to the academic environment concerned (Vişan 2018c, 342).

The quality of the education act as well as the acquisition of generic competences education levels is determined by the initial and continuous training of the teaching staff, but also by the administration and management of educational institutions through an effective quality assurance system. Initial and continuous training is a complex process that leads to professional development, centered on professional skills of methodological type, based on the reflective practice of the profession, the broadening of scientific and practical training, by Analogies of related domains, with specialized interference, ideological pluralism, multiculturalism, polycentrism, associated with teamwork, resulting in the formation of situational and orientation analysis competences in socio-cultural environments as diverse as possible (Vişan 2018c, 209).

The Europeanisation of the educational framework is also highlighted by „the formation of European citizens, endowed with European information and competences, in the spiritual values of Europe, which have a culture, conscience and European identity” (Potolea, Neacşu et al 2008, 14). Therefore, the size of European education aims to promote equity, social cohesion and active citizenship, which allows all citizens, irrespective of socio-economic circumstances, to acquire, update and develop throughout the lifetime of both job-specific skills and key competences necessary to enable employment and continuation of learning, active citizenship and intercultural dialogue (O.J. of E.U., 2009, C 119/4).

The relevant tendency to achieve this objective relates to a common framework for cooperation in order to ensure early education, the inclusion of people from disadvantaged backgrounds, those with special needs, as well as migrants. Early education is based on the substantiation and development of the concept of education for children under three years, a necessity stemming from the priorities of education at European and national level, pillar for lifelong learning, which is long-term asserted decreasing the rate of school dropout, improving the child's school success rate.

The meaning of the term inclusion is addressed from the perspective of several forms: improving education conditions at the level of special education, preventing school abandonment and improving the rate of school success for children with special needs (CSN), as well as the right of participation of the different categories of migrants at initiation courses in the mother tongue, in accordance with the legislative amendments in force. The two processes, education and inclusion favor the appropriation and transmission of democratic values, multi-cultural competences, as priorities necessary for the fight against all forms of discrimination (Mihalache, Baicu, Marin, 2015).

Ensuring a global and European dimension of education through the connection between theoretical and ideological aspects, strengthens the universal framework of the right to education, with permanent, decisive vibrations, indispensable to „a understanding holistic and systemic

education at the border between millennia” (Văideanu, 1988), where the universality of education identifies with the „spirit of responsible global citizenship” (UNESCO 2013).

Conclusions

The accessibility and transparency of the implementation of the right to education at European and international level generates positive perspectives in the formation of young people, future citizens, leading to the maintenance of a global community based on culture as Human rights and peacekeeping in the world. The application and promotion of universal legal instruments, which stimulate all state and non-State actors in order to implement universal educational policies, will determine the formation of citizens today and tomorrow-social partners and Economic growth, pillars in the advancement of mankind.

The proposed theme gives us elements of cohesion and awareness of the role that the right to education holds, with profound meaning to lifelong learning – “learning throughout life”, where the European education policy makers and international, together with national authorities are looking for solutions to guarantee the achievement of the stated goals: One hour a day – one week a year! (Șoitu 2016, 9). The slogan is imperative and is addressed to the decision makers of each education system, recalling that the formation and development of the human resource requires a constant process of feeding and reforming the right to education, as a universal right of all actors involved (Vișan 2018a, 212).

Supported by the effective and effective exercise of the right to education, the training process for educators must be regarded as a worldwide, universal imperative, addressed to all State bodies to ensure compliance with global policies, with a view to Facilitating education as a means of national, regional and international development.

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The Relation Between Law and Morality

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ABSTRACT: Most specialists agree that between law and morals there is a close connection, because the moral principles of good, justice and truth are appliances and promoted by the rule of law, even if the right and the moral retains its identity. However, over time, their views on the problem of knowing what is the relationship between law and morals were contradictory. Between law and morals, I consider that there is only an apparent contradiction, because the two concepts are complementary. The right would seem a trap for lawyers in that could make them to resist the temptation to not see beyond the letter of the law, given that the need for law enforcement and understanding of its spirit. A true man of law must not only know the law but also to look beyond it and realize that the main attraction of the moral law.

KEYWORDS: law, moral, philosophy, religion, rationality

Introduction

Morality, according to doctrine, represents a set of concepts and rules about good or bad, right or wrong, allowed or not allowed. The norms of morality are the creation of society or social groups. Also, moral norms indicate to people, like norms of law, the necessary conduct and show the consequences of non-observance of this behavior, namely moral sanctions that are different from legal ones.

The law is the system of norms established or recognized by the state for the purpose of regulating the social relations according to the will of the state, whose observance is guaranteed by the coercive force of the state. Researching various aspects of law highlights the specific and essential features that determine the notion of law and thus delimits the law from other phenomena. However, between law and morality there is a close connection, of mutual conditioning. Thus, the law embodies within it moral principles, protects and guarantees fundamental moral values, and at the same time its fundamental force is given by its moral obligation. For legal rules to be effective, they must comply with moral standards that are accepted by their recipients.

History of the relationship between Law and Morality

The issue of the relationship between morality and law has been the concern of legal thinking since antiquity. If in ancient Greece there wasn't yet a clear delimitation between the two concepts of social norms, the Roman legal theory, being very preoccupied with the improvement of the legal system, took important steps to conceive the independence of the law in relation to morality. Originally, as the percept of the law, there was only the traditional *sum cuique tribure* (to give to everyone what they deserve), *neminem laedere* (to not bring any harm to anyone) being later mentioned.

The legal doctrine has had great difficulties from the very beginning in delimiting the concept of law from that of morality. According to a conception of doctrine, the sphere of law and morals would interpenetrate or the law would be a minimum of morality.

Aristotle (1996) believed that there must be a relationship of subordination between law and morality. So he said that as soon as the supreme goal of promoting virtue disappears, "the law becomes a simple convention, being merely a guarantee of individual rights, without any disruption to the morality and personal justice of the cities".

Morality is a foundation for law in Cicero's (1995) view also. Cicero is considered to be the first and one of the few lawyers who appreciated that justice, being a social ethic, presupposes people's love for others, an idea that was later taken over by Christianity as well. Of course, the origin of law is in nature because good and evil, being principles of nature, are judged in accordance with it. In this sense, the evangelist is the passage in the work of *De Re Publica*: "Yes, there is a righteous, true, rational law according to nature, engraved in all hearts, immutable,

eternal, whose voice dictates our debts, whose threats hinder us from to evil, without ever having her precepts pretended to be good or to move the wicked”.

Mihnea Jida (2013) asserts that the philosopher Ch. Thomasius was the first who, from the theoretical point of view, made a distinction between law and morality. In his essay, *Fundamenta Juris Naturalae et Gentium* (1705), he considered that law is distinguished from moral content, because moral obligations are imperfect because they do not provide for sacrifices, while legal ones are perfect with sanctions.

From the perspective of Immanuel Kant, which was distinct from ancient philosophy, moral action prevails. This, inherent in itself, allows it to subordinate the moral right, within the distinction between the two, the law to only external relations. So morality is a limit for the law, and it cannot act on the moral sphere of being. Although there is a distinction between these two concepts, law and morals still have a common link: the fact that both originate a common reason.

Also in the philosopher I. Kant's (2013) view in the book *The Metaphysics of morals*, morality is based on the consciousness of individuals, not on the fear of sanction, in the work of *Metaphysics of morals*, but we believe that the moral corresponds to rights which consist in the moral possibility of coercion in the fulfilment of moral obligations with the help of the public opinion. Hegel (2015) considered morality to be a motivation of law, and that it does not separate from it, but gives it substance by securing means within the sphere of law. Morality is an intermediate stage to the idea of law, and both law and morality must be subordinated to ethics. There are also authors who have gone to the other extreme in the sense that they exclude any connection between morality and law. Hans Kelsen (1962), for example, believes that the science of law is pure theory of law and that, in his research he must abstain from moral or political influences over the law.

Specific features

Even though, unlike morals, the law regulates external conduct, there is no difference in nature or purpose between the rule of law and the moral rule. Moreover, even in its most technical appearance, law is governed by moral law. The only difference is character; the moral rule being invested with much more forceful means of enforcement (the possibility of state constraints that may intervene in case of violation).

In the attempt to establish a major distinction between ethical and legal, we observe that the sphere of morality is wider than that of law, regulating behaviour in the most diverse social relationships. But this does not mean that all norms of law are included in the sphere of morality. For example, legal rules of a technical nature, such as civil or criminal procedural law, do not usually include a moral appreciation.

Another distinction is that moral norms are not usually written norms, which are not necessarily included in some official documents, because they are the product of the unorganized social collective. Instead, the rule of law has an official form and is the result of the official activity of state bodies.

According to Momcilo Luburici (2014), compliance with moral norms is not guaranteed by the coercive force of the state, as in the case of the rule of law, but by the action of social factors, public opinion, education, etc. Thus, the social environment reacts to the immoral facts through public abuse, contempt, etc., and the one who committed an immoral act and is conscious of it, may have reproofs of conscience, evil opinions, etc.

Mircea Djuvara (1999) argued that “the foundation of law and morality is the same, the idea of obligation” and that “morality has as its object the regulation of internal affairs”, and “the law has as its object the regulation of our external material facts in light of our intentions”. Although the law cannot interfere with the inner processes of the individual because it has as its object the regulation of the external manifestations of the individual, that is, the relations with the other people, the morality needs to penetrate into the law, sanctioning it where necessary.

In Ripert's (1927) opinion, morality has as fundamental values the principles of good, righteousness, justice and truth, values that are promoted and defended by the law.

Conclusions

Thus, the principles of law originated in morality, this being the cornerstone of the law. The core of the distinction between legal and moral norms, according to Del Vecchio (1993), is that “the law constitutes objective ethics and the moral subjective ethics”.

In order to be able to correctly determine the relationship between law and morality, we must take into account the fact that only morality, as a duty, is related to the law, it can be transposed into legal norms, but we cannot regard morality as aspiration to be related to law, centered on virtue.

Although the law is autonomous, it must not be taken to the extreme, because there is a risk that, if it escapes from rational and moral control, atrocious legislation like Nazi Germany will be built. A right which is not in the service of morality and which does not aim to spread human virtues is no longer a right. Because the right is rational, its violations will only be regarded as accidents, because the recipients who leave themselves to reason will respect it by conforming. Only a rational right can hope to be respected principally in such a way. Thus, legal sanction, as an essential element of any legal norm, is only exceptionally manifest in law.

The primary purpose of the law is the realization of justice, so it is a means by which justice is done, since the entirety of the law represents a multitude of rules and principles that clearly derive from morality. Thus, the end of the law is also morality.

Jurisprudence must appeal, when necessary, to moral principles and equity, because the law cannot regulate all possible situations. On this issue, Aristotle (1996) has an interesting parable, a comparison that he made between the moral rule and a lead ruler that was used by the inhabitants of the island of Lesbos. This ruler was made of a more flexible material; it could be more easily moulded if the measured material had bumps. Thus, the rule of law may be likened to a lead ruler, which may undergo changes in some cases.

Most fundamental principles of law derive from morality, so a true lawyer must always look beyond the letter of the law and identify his spirit.

Whatever the views of the differences between law and morality, they are nevertheless complementary. The lawyer who dominated the Romanian legal scene in the interwar period, Micescu (2000), states that “*law is a kind of morality, but a morality imposed, with the guarantee of securing the respect it owes. In other words, the law is the morality of those who do not have morals ‘and that unlike other sciences who’ are content to find what it is and to express what it finds, the law has an extra claim: after having found, after has noticed, after detaching the relations as they are, to judge them under the angle of view of moral values and, instead of looking with resignation to what it is, to impose with authority what must be.*”

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Resale Price Maintenance: What Future, What Past?

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ABSTRACT: The paper deals with a comprehensive analysis of the evolution of vertical price restraints in the American, European and Indian market. Resale price maintenance refers to the efforts of a manufacturer to restrict the range of prices charged by a retailer of the manufacturer's product. In this paper there will be an analysis of evolution of resale price maintenance in US with the inception of Sherman Act to Leegin Creative Leather case for maximum and minimum resale price maintenance. There will also be an analysis of evolution of US competition law from Per-se to Rule of reason with regard to incident of checking the anti-competitive market practice. A detailed analysis with respect to US, EU and Indian stand on competition law will be given in this research paper.

KEYWORDS: Resale price maintenance, Competition law, Rule of Reason

Introduction

A resale price maintenance (RPM) agreement is a contract in which a manufacturer and a downstream distributor (retailer) agree to a minimum or maximum price the retailer will charge its customers (consumers) (Mills and Elzinga 2008, 1841-1858). Resale price maintenance can be used to retain control over the services offered in the market but in certain cases the agreements between parties are per se showing resale price maintenance. Examples of the latter are an agreement fixing the distribution margin, fixing the maximum level of discount the distributor can grant from a prescribed price level, making the grant of rebates or reimbursement of promotional costs by the supplier subject to the observance of a given price level, linking the prescribed resale price to the resale prices of competitors, threats, intimidation, warnings, penalties, delay or suspension of deliveries or contract terminations in relation to observance of a given price level. Immediate or aberrant methods for accomplishing value fixing can be made progressively viable when joined with measures to distinguish value cutting wholesalers, for example, the usage of a value checking framework, or the commitment on retailers to report different individuals from the dispersion arrange who go amiss from the standard value level. Additionally, immediate or roundabout value fixing can be made increasingly powerful when joined with measures which may lessen the purchaser's impetus to bring down the resale cost, for example, the provider printing a prescribed resale cost on the item or the provider obliging the purchaser to apply a most-favored client statement and so on.

It has been argued that through price maintenance, a supplier can exercise some control over the product market. This form of vertical price fixing may prevent the margin from retail and wholesale prices from being reduced by competition. However, an alternative argument is that the supplier may wish to protect the reputation or image of the product and prevent it from being used by retailers as a loss leader to attract customers. Also, by maintaining profit margins through RPM, the retailer may be provided with incentives to spend greater outlays on service, invest in inventories, advertise and engage in other efforts to expand product demand to the mutual benefit of both the supplier and the retailer. RPM may also be used to prevent free riding by retailers on the efforts of other competing retailers, who instead of offering lower prices expend time, money and effort promoting and explaining the technical complexities or attributes of the product. (OECD Glossary, n.d.) For example, one retailer may not reduce price but explain and demonstrate to customers the use of a complex product such as a computer. The customer may after acquiring this information choose to buy the computer from a retailer that sells it at a lower price and does not explain or demonstrate its uses (Problem of free-riding). In many countries, RPM is per se illegal with few exceptions or exempt products. Many economists now advocate adopting a less stringent approach in competition law towards RPM and other vertical restraints. Resale price maintenance

has the ability to restrict competition in a primarily vertical fashion. They involve arrangements on a vertical chain, such as bilateral agreements between a manufacturer and a retailer. In contrast with horizontal collusion, vertical agreements are common and essential in a market consisting of bilateral or multilateral agreements. All these arrangements can include restrictive aspects which can lessen competition, primarily, intra-brand competition. In this paper we will talk about how the policy differ in EU and US law regime.

Evolution of RPM in United States

The United States was one of the first countries to introduce the modern antitrust (Competition law). An important piece of US legislation the Sherman Act (Sherman Act 1890) was enacted in 1890. It created the most important basis for the law of vertical restraints. However, it would be wrong to suppose that antitrust law and policy, including the law of vertical restraints, has not changed since 1890. US antitrust policy has been constantly evolving, in some areas, such as vertical restraints, more than others.

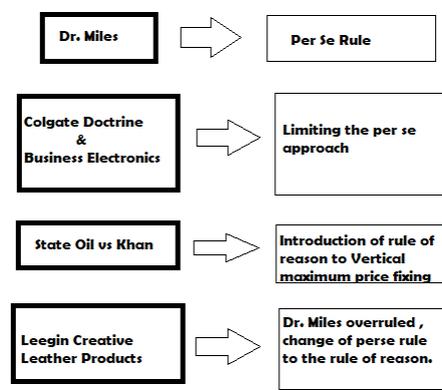


Figure 1. Evolution from per se to rule of reason

The First important milestone for the approach to RPM was the case of Dr. Miles (220 U.S. 373(1911)), which introduced the per se rule in 1911. Since then many changes have been adopted, with the Colgate (250 U.S. 300(1919) doctrine from 1919 and Business Electronics (485 U.S. 717(1988)) arguably limiting the per se approach in 1988, The Miller- Tydings Act in 1937 and McGuire Act in 1952 allowed RPM under state statutes, both of which were repealed by the Consumer Goods pricing Act in 1975. Khan (522 U.S. 2(1997)) introduced the rule of reason to vertical maximum price fixing in 1997 and ten years later, the Supreme Court overruled Dr. Miles in Leegin, (551 U.S. 877 (2007)) which changed the per se rule to rule of reason.

RPM: Leegin: Rule of Reason

In the case of *Leegin Creative Leather Product Ltd*, the Supreme Court introduced the rule of reason to agreements on vertical price fixing and minimum price fixing, overruling the Dr. Miles Doctrine, which set the per se rule for vertical minimum price collusion. Leegin involved RPM in the form of minimum price setting.

Leegin Creative Leather Products, a maker of ladies' extras, went into vertical least value concurrences with its retailers. The understandings required the retailers to charge within certain base costs for Leegin items. As per Leegin, the value essentials were expected to energize rivalry among retailers in client administration and item advancement. When one retailer, PSKS, limited Leegin items beneath the base value, Leegin dropped the retailer. PSKS sued, contending that Leegin was damaging Section 1 of the Sherman Act by taking part in anticompetitive value fixing. Under the Supreme Court's 1911 choice in Dr. Miles Medical Co. v. John D. Park and Sons Co., compulsory least value understandings are in essence illicit under the Act - that is, they are naturally unlawful paying little heed to the conditions.

Leegin contended that this standard depended on obsolete financial aspects. It fought that a superior legitimate investigation would be the "principle of reason," under which value essentials would be held unlawful just in situations where they could be appeared to be anti competitive. Both the District Court and U.S. Court of Appeals for the Fifth Circuit dismissed these contentions. The courts felt constrained to pursue the Supreme Court's standard in the Dr. Miles case, under which Leegin's practices were illicit paying little heed to the monetary contentions set forward by the organization.

The Supreme Court majority conclusion held that Dr. Miles had blundered by treating vertical least value understandings among producers and retailers as comparable to even value fixing understandings between venders. The Court referred to confirm from the financial writing that vertical least cost understandings are once in a while anti competitive and can regularly capacity to increment between brand rivalry. The Court recognized that now and again vertical value essentials may encourage producer cartels, yet it held that cases where the value understandings are manhandled for illicit anti competitive purposes can be resolved on a case-by-case premise under the standard of reason. The unimportant actuality that vertical value essentials may prompt more expensive rates for merchandise can't think about adversely its lawfulness under the Sherman Act, in light of the fact that there are many genuine business choices that may at last outcome in more expensive rates. The lion's share likewise recognized that the rule of stare decisis would weigh against overruling the almost 100-year-old point of reference in Dr. Miles, however it held that the Sherman Act is to be treated as a "custom-based law resolution," which must be permitted to advance in the courts as financial learning and conditions change. The nonconformists, in a feeling created by Justice Stephen Breyer, saw no adjustment in conditions that would legitimize overruling Dr. Miles, and they contended that the dependence of the business network on that choice bolstered adherence to stare decisis.

Pro-competitive and Anti-Competitive Effects of RPM on Competition

The Supreme Court recognized three principle procompetitive justifications for overruling the per se rule in Leegin's case:

1. The free riding theory
2. New entrant justification; and
3. Increasing inter-brand competition by providing services.

This leads us to the following pro-competitive and anti-competitive effects:

Beneficial effects

Vertical restraints can be employed to reduce transaction costs or to achieve other efficiencies between firms at different levels of the production and distribution chain (Rey and Verge 2004). Vertical restraints, like exclusive distribution can also help to solve the potential problem of under investment. It has to be observed that when the pro-competitive effects of an agreement outweigh its anti-competitive effects the agreement is on balance. The primary goal of these agreements is to promote the spirit of competition in the market by promoting better services and prices of the products in market by increasing competition between rivals so ultimately its the consumers who are benefitted. Another benefit which derives from resale price maintenance relates to "double marginalization". The intuition behind double marginalization is that if both the producers and distributors add markups over their costs. The resulting "double" markups will lead to excessive prices. In this resale price maintenance could help the manufacturer by bringing the prices down to joint profit maximizing level (Peeperkorn 1998).

Resale price maintenance also provides a solution for the free rider problem. It has to be understood that those established distributors who have already invested on products will not be interested in promoting services for new products as the new entrants will just free ride on the services provided by the established distributors. Hence it is essential that a certain degree of cap is

to be imposed even for the new entrants to invest on the point of sale services and maintaining balance among the distributors. This is particularly true with respect to products that require certain pre-purchase services due to its technical complexity.

Furthermore, resale price maintenance can also increase sales and create brand image by imposing certain standards of quality on the distributors in result of which there will be an increase in competition among inter-brands by providing services.

Anti-competitive Effects

Vertical restraints can also lead to anti-competitive effects. Negative anti-competitive effects, which may result from vertical restraints, are: foreclosure by raising barriers to entry, reduction of inter-brand competition (including facilitation of collusion, both explicit and tacit), reduction of intra-brand competition, and creation of obstacles to market integration (Hughes, Foss and Ross 2001, 427).

If a single vertical agreement provides a major chunk of market power resides with few suppliers and manufacturers then it will result in negatively impacting the economy. The efficiency in prices can only be observed by the consumers if there is a likelihood of competition between suppliers of goods and services exists. Other wise if they entail the majority share in the market those efficiency will be negated as extra profits.

It has to be observed that a series of exclusive distribution agreements between a producer and a large number of distributors can shield a market from new entrants ((1991) ECR 935.). In such cases the positive effect on competition of vertical agreements is easily offset by their detrimental effect of hindering the emergence of new competitors.

Another competition risk is that certain buyers within that market can no longer buy from this particular supplier, i.e. it leads to foreclosure of certain buyers. In the case of wide exclusive territories or customer allocation, the result may be total elimination of intra-brand competition.

Vertical Agreement & RPM in European Union

Vertical agreements are agreements made between undertakings operating at different levels of the same market. The European Union's treatment, particularly by the Commission, of vertical agreements has historically been criticized for failing to create an effective framework. The commission aware of the criticisms of its approach initiated a process of reform which culminated in the adoption of the first Vertical Agreements Regulation (European Union Law 1999) which was replaced by the current Vertical Agreements Block Exemption Regulation (the "VABER") in 2010.

VABER and its accompanying guidelines provide a safe harbor to those vertical agreements which fulfills certain conditions.

The 'umbrella' exemption approach adopted ensures that every type of restraint is permitted unless it is strictly prohibited. Using only a black list of prohibited terms increase the flexibility of parties allowing them to adopt agreements that are appropriate for their commercial setting.

Market Share Threshold

Following the Commission Communication's focus on market power, Art 3 of the regulation creates a safe haven for all vertical agreements, subject to Art 4, where:

The market share held by the supplier does not exceed 30% of the relevant market on which it sells the contract goods or services and the market share held by the buyer does not exceed 30% of the relevant market on which it purchases the contract goods or services.

Hardcore Restrictions

The 'black list' of hardcore restrictions is provided in Art 4 of the Regulation. Article 4 sets out the list of provisions which are prohibited and which will render an agreement not capable of exemption under the regulation.

Resale Price Maintenance

Article 4(a) provides that resale price maintenance is considered to be a hard-core restriction, whether it is imposed directly by fixing a minimum resale price or indirectly, by fixing discount levels or linking threats of delayed supplies or penalties to the observance of a recommended price level. There is no restriction on maximum pricing. This hard-core restriction was until recently largely unobjectionable, but following the US move away from RPM being considered illegal *per se* in *Leegin* (551 U.S. 887 (2007) (Sup Ct (US))) the debate about the anti-competitive effect of vertical price fixing in EU has reopened (Zevogolis 2013).

The new Guidelines, however, recognize three situations in which RPM could cause efficiencies to the benefit of consumers and so may be exempted under Art. 101(3): 'Firstly, resale price maintenance may be necessary to induce distributors to promote a new product when it is not practical to achieve this result contractually. Secondly, resale price maintenance may be necessary to organize short-term (six to eight weeks) promotions in distribution agreements belonging to a franchise system or similar distribution system applying a uniform distribution system (arguably, selective distribution systems). Thirdly, the parties may demonstrate that resale price maintenance is a means to avoid free riding of pre-sale services, in particular, in the case of experienced resellers or complex products (Stefano 2010, 487).

The Future of hardcore restrictions or restrictions by object

Jones et al. have found that the Commission and the ECJ have a different understanding of restrictions by object (Jones 2010 649-656) The Commission states that restrictions by object are those which 'by their very nature' are likely to produce negative effects on the market and to jeopardize the objectives pursued by EU competition rules. Because of their high potentiality to produce negative effects, there is no need to assess their 'actual effects on the market'. However, the ECJ finds that to determine whether conduct is 'by its very nature' injurious to competition or anti-competitive by nature (restrictive by object), 'regard must be given inter alia to the content of its provisions, the objectives it seeks to attain and the economic and legal context of which it forms a part' ((2009) ECR I-9291)

Per se and Rule of Reason With respect to RPM***In United States***

In the US there is a dual approach to the consideration, under section 1 of the Sherman Act, of restrictions in vertical agreements (Rodger and Macculloch 2015). Some restraints of trade are considered to be illegal *per se* and others are subject to the 'rule of reason' in order to determine whether they are reasonable or unreasonable. The major development in US antitrust law has been the dramatic reduction in restrictions which are subject to the *per se* test, which is now limited, for instance, to horizontal market division and price-fixing; the *per se* test no longer applies to vertical resale price maintenance. Under the *per se* rule, no further inquiry is made into the existence of anti-competitive effects, market power or intent.

The rule of reason test, which requires consideration of the impact of the restraint on competitive conditions, is more complex. It now applies to all of vertical restraints and requires a detailed economic analysis of the restraint, market structure and market conditions to assess the restraint likely pro- and anti- competitive effects. The first major step in the direction was the US Supreme court decision in *Continental TV Inc vs GTE Sylvania* (433 US 36 (1977)), which confirmed that the rule of reason test should be applied to non-price vertical restraints to assess their legality. After *Sylvania*, US authorities have adopted a particularly tolerant approach to most vertical restraints based primarily on free-rider rationale (Calavni 2001, 201) The *Sylvania* rule of reason test was extended to vertical resale price maintenance by the majority of the Supreme Court in 2007 in *Leegin Creative Leather Products Inc v PSKS Inc* (127 SCt 2705 US (2007))

In European Union

The Commission, perhaps influenced by the Leegin judgement, has indicated a willingness to adopt a more lenient approach to fixed and minimum RPM. Although it has retained their exclusion from the current block exemption on vertical restraints in the revised accompanying guidelines the commission is willing to apply a more rigorous assessment of the alleged negative effects when an efficiency defense is raised.

Though it still considers a particular type of trade restraint to be so anti-competitive that no inquiry is required and the adjudicating authority presumes that the party has indulged in anti-competitive practice on fulfillment of certain conditions. It has to be noted that both rule of reason and per se are not rules of fact; rather they determine the burden of proof.

Accordingly, the commission has distinguished between types of vertical restraints which have the object of restricting competition, which could be described as per se prohibition such as export bans, and other vertical restraints which requires an economic analysis of the effects of an agreement.

Policy conclusions on vertical restraints

Resale price maintenance can result in both anti and positive competitive features. Resale price maintenance can only be of concern when the competition among brands is not sufficient, which means that there is an unusual share of market power being held by either the retailer or supplier. Incidentally If market is filled with many firms competing with each other which will result in an decentralized market and an absence in anti competitive effects in the market. So it has to be observed that those contracts which provides exclusivity to both manufacturers and retailers will always pertain to anti competitive effects in the market and hence should be filtered out when scaling resale price maintenance or vertical agreements in general.

Resale price maintenance in India with respect to orders of Competition Commission of India

Explanation (e) to s. 3(4) of the Competition Act describes that resale price maintenance includes any agreement to sell goods on condition that the prices to be charged on the resale by the purchaser shall be the prices stipulated by the seller unless it is clearly stated that prices lower than those prices may be charged.

Any RPM agreement constituting under section 3(4) e has to go through the test laid down by Section 19(3).

Section 19(3) of the Act states that while determining whether an agreement has an appreciable adverse effect on competition under section 3, the Commission shall give due regard to all or any of the following factors:

- a) creation of barriers of new entrants in the market;
- b) driving existing competitors out of the market;
- c) foreclosure of competition by hindering entry into the market;
- d) accrual of benefits to consumers;
- e) improvements in production or distribution of goods or provision of services;
- f) Promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services.

CCI's adjudication on RPM

In the case of M/s Fx Enterprise Solutions India Pvt. Ltd. V. M/s Hyundai Motor India Limited (CCI 2018)

For the first time the Competition Commission of India upon DG investigation it was observed that Hyundai has imposed a restriction on the amount of discount which can be given by the dealers. Hence it was observed that the company had a discount control mechanism through creating a ceiling of maximum permissible discounts, which created an appreciable adverse effect on competition which resulted in a penalty of INR 87 crores being imposed.

Findings & Conclusion

The economic approach to RPM is outcome oriented; however, final outcomes are uncertain. It cannot be said that RPM is always pro competitive or anticompetitive. Whether a particular RPM practice is anticompetitive or procompetitive differs from case to case. Moreover, it also depends on the method and theory used for the outcome measurement. RPM do not necessarily lead to increased inter-brand competition as advocated by US approach to RPM but, on the contrary they can decrease inter-brand competition. Whether fixed and minimum RPM may truly provide significant efficiencies so as to offset its negative effects remain controversial. While most economists theorize about the benefits of RPM, some commentators such as Peeperkorn seriously question the robustness of arguments supporting the view in favor of efficiencies by RPM. There is much to be said for maintaining a presumption of illegality in respect of fixed and minimum RPM; but one that allows for its rebuttal by the undertakings concerned where they can provide solid evidence of verifiable efficiency claims that may be passed on to consumers, as is the case under EU law.

EU competition law, including the law on vertical restraints is based on two principal objectives:

1. A competition law objective: the protection of competition, in particular, protecting free and fair competition and enhancing consumer welfare; and
2. The EU- purpose objective: establishing and maintaining an integrated market.

In India the concept of Resale price maintenance, Section 3(4) (e) is observed through a ‘rule of reason framework’ of its pro-competitive and anti-competitive effect. This has been laid down with respect to the provisions given in Section 19(3) of the Competition law, in which the factors under section 19(3) a to c (anti-competitive effects) is weighed against the pro-competitive factors, d to f. If RPM is disrupting the market and is *presumed* to cause an appreciable adverse effect on competition (AAEC), then appropriate action will be taken by the Commission.

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Court-Appointed Lawyer in the Criminal Trial

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ABSTRACT: The article presents a few issues about the importance and necessity of a court-appointed lawyer in the criminal trial. In order to secure the right to defence, if the suspect or defendant has not appointed a lawyer to represent his/her interests, the judicial body has the obligation to take measures in order to appoint a public defender. Therefore, the protection of such rights must be material and objective, not only theoretical and illusory. But the appointment of a lawyer only is not enough to provide effective assistance. The public defender is appointed on written demand of court, justice of peace, preliminary chamber judge, criminal investigation or search body, bar council. The suspect or defendant is not allowed to elect a public defender. If appointed, the public defender has the obligation to provide legal assistance less when there is a conflict of interest between the lawyer or a suspect or defendant. This measure is determined both for consolidating the idea of fair, transparent justice and for securing a fair trial to the individuals criminally accused.

KEYWORDS: criminal accusation, fair trial, Lawyer, legal assistance, right to defence

Introduction

By legal assistance, one understands the service of legal assistance offered by a lawyer, according to art. 150 par. (1) of the Law on legal profession. The persons accused of committing an infraction must be informed related to the accusation, to be able to prepare his/her defence, to enjoy a fair trial, in a state of law. Although not everyone has a financial situation that may allow him/her to hire a lawyer, the state has the obligation to provide for his/her defence in the criminal trial.

Notion of Legal Assistance

The legal assistance represents, on the one hand, a guarantee of observance of general principles in a criminal trial, and on the other hand, it is an important part of the right to defence. There is no identity between the legal assistance and judicial assistance. The legal assistance is granted on demand of the client, whereas in case of judicial assistance, the lawyer is appointed by the bar, on demand of judicial body. The judicial assistance entails an institutional collaboration between U.N.B.R. (National Union of Romanian Bars) and the Ministry of Justice, the Superior Council of Magistracy, the courts etc. (Dinu 2017, 21).

In this respect, each bar organizes and provides a judicial assistance service, attached to each district court, which is a responsibility of Bar's Council.

The lawyer appointed to provide legal assistance in the criminal trial is protected by law, being subject only to law, the Law on legal profession and Deontological Code. The free legal assistance in the criminal trial is granted if the suspect or defendant has no lawyer and the legal assistance is obligatory. When the lawyer is appointed ex officio, he has no right to receive from the suspect or defendant any amount of money or other awards. The mandate of the lawyer ex officio terminates when the suspect or the defendant hires a lawyer.

The lawyer ex officio has the obligation to study thoroughly the cases assigned to him, to appear on the terms determined by courts and criminal investigation bodies. He has to manifest scrupulosity and professional probity, to file written submissions or meeting notes, when the nature or difficulty of the case entail it. It is not enough a simple appointment of the lawyer ex officio, the judicial bodies have the obligation to make sure that the lawyer has studied the case, has knowledge of the parts of file, and is actually able to provide for an effective defence. The lawyer ex officio cannot refuse to provide legal assistance, but in case of incompatibility of conflict of interests (for instance, he has been witness in the case).

Obligatory Legal Assistance for the Suspect or Defendant

According to the Code of Criminal Procedure, during the entire criminal trial, the legal assistance of suspect or defendant is obligatory in the following situations:

- a) The suspect or defendant is underage;
- b) The suspect or defendant is hospitalised in an educative centre or centre of detention;
- c) The suspect or defendant is in remand custody or house arrest, even in another case. If remand in custody has been ordered in default, the legal assistance will be obligatory as of the date of deprivation of freedom of defendant and not between the date of the issue of remand in custody mandate and the date of enforcement of it (it is necessary the prior hearing of the suspect or defendant in the presence of the lawyer)
- d) it has been ordered a safety measure of medical hospitalisation, even in another case, against the suspect or the defendant;
- e) if the criminal investigation body, the justice of peace or the indictment division of court or the court considers that the suspect or defendant is not able to provide for his/her own defence. Under certain complex situations, specialised assistance is needed (by lawyer), since the right to defence exercised personally may be affected.

Legal Assistance of Defendant during Different Trial Stages

The obligation of legal assistance of defendant appears as well during different trial stages, such as in case of taking and extending the procedure of involuntary medical hospitalisation; on the occasion of settlement of the appeal against the judgement passed by the justice of peace in first court;

On the occasion of debating the proposal of taking the measure of remand in custody or house arrest against the defendant not detained, the judicial assistance is obligatory as well as during the procedure of settlement of the appeal against the judgements passed related to the preventive measure by the justice of peace or the indictment division of court. The legal assistance is also obligatory during the judicial control or judicial control on bail; in the procedures of debates ex officio of the legality and merits of preventive measures; in the procedures related to the debate of termination as of right of preventive measures; in the procedure during the criminal investigation, related to concluding an agreement of acceptance of guilt; in the procedures of taking, confirmation, substitution or termination of a provisional procedural measure of obligation to medical treatment or medical hospitalisation, organised before the indictment division of court pursuant to passing a judgement of no trial (Udroiu 2018, 908-910).

The legal assistance is also obligatory during the directions hearing, as well as during the trial, in the cases when the law stipulates for the infraction committed the life detention or imprisonment for more than 5 years. By the penalty stipulated by law, we consider the penalty stipulated by the indictment rule, without considering the cases of reduction or increase of penalty.

The legal assistance in this situation is obligatory both for the defendant natural person and for the defendant legal person. In this respect, the High Court of Cassation and Justice by judgement no 21/HP/2016 stated “that in the interpretation and enforcement of the disposals of art. 90, lett. c) Code of Criminal Procedure, during the directions hearing and trial, in the cases when the law stipulates for the infraction committed life detention or imprisonment for more than 5 years, the legal assistance is obligatory for the defendant legal person, according to the disposals of art. 187 Criminal Code”.

If the court considers that it is necessary to change the legal classification (in terms of art. 386 CPP) and orders it, and according to the new legal classification of offence, the penalty stipulated by law is imprisonment more than 5 years, the legal assistance becomes obligatory as of the date the court passes the measure.

During the trial, the obligatory nature of legal assistance entails a defence during the entire trial and all trial hearings.

For obligatory legal assistance, if the lawyer appointed by the suspect or defendant, is absent without reasonable justification, does not provide for substitution or refuses without reason to exercise the right to defence, although it has been provided for the exercise of all procedural rights,

the judicial body takes steps to appoint a lawyer ex officio, to substitute him, providing the latter a reasonable term and the facilities necessary for an effective defence. This will be recorded in a protocol, or if any in the judgment.

Legal Assistance of Plaintiff, Responsible Party in Civil Suit and Aggrieved Party

In the case of an aggrieved party, plaintiff and responsible party in civil suit, the legal assistance is in principle facultative, however, there are some exceptions. Therefore, if the aggrieved party or the plaintiff is a person lacking legal competence or with restricted legal competence, the legal assistance is obligatory. This is not applicable to the responsible party in civil suit.

Another situation of obligatory legal assistance is when the judicial body considers that the aggrieved person, the plaintiff or the responsible party in civil suit is unable to provide for its own defence.

A special case of obligatory legal assistance of aggrieved party is when it is the victim of the offence of human trafficking. In this case, art. 44 par. (1) of Law no 678/2001 stipulates that it will be provided obligatory legal assistance to be able to exercise its rights in the criminal procedures stipulated by law, during all phases of criminal trial, and to sustain its petitions and civil claims against the persons who have committed the infractions stipulated by this law, in which they are involved.

According to the Code of Criminal Procedure during the trial, the aggrieved party and the parties are entitled to only one hearing to appoint a lawyer and prepare the defence. If the aggrieved party or the parties fail to appoint a lawyer within the term granted by court, the trial shall continue, the legal assistance being provided ex officio for the cases of obligatory legal assistance.

In the criminal trial, the lawyer ex officio may be only a lawyer registered in the table of the Bar part of the National Union of Bars in Romania. *“The legal assistance granted in the criminal trial to a defendant or accused, by a lawyer not acquiring the status of lawyer in terms of Law no 51/1995 is equivalent to lack of defence (Decision no 27/2007, ÎCCJ-RIL, published in the Official Gazette no 772 dated 14th November 2007).*

If the breach of the disposals related to obligatory legal assistance during the trial in first court (not if the lack of defence has targeted the criminal investigation or the directions hearing) is determined by the court of appeal, the case will be remanded for retrial to first court. The breach during the trial of the disposals of obligatory legal assistance of the defendant may be claimed by appeal for annulment (Neagu, Damaschin and Iugan 2016, 85).

An important aspect, in the lawyer-client relationship, is that of respecting professional secrecy. The Right of an accused to communicate with the lawyer or in the absence of any other person is part of the basic requirements of a fair trial.

Court of Justice of the European Union in *AM&S v Commission*: Keeping confidentiality in connection with certain communications between the lawyer and the client constitutes a general principle of law, common to the laws of all Member States and therefore a right fundamentally protected by Community legislation.

It is necessary to examine whether the obligation incumbent on a lawyer acting in the exercise of his professional duties to cooperate with the competent authorities in the field of combating money laundering, within the meaning of article 6 alin. (1) of Directive 91/308, and to inform these authorities of their own initiative of any fact which may indicate a money laundering, taking into account the limitations of the above obligation mentioned in article 2a (5) and article 6 alin. (3) of those Directives, constitutes a breach of the right to a fair process guaranteed by art. 6 of the Convention and by art. 6 par. (2) TEU. Article 6 alin. (3) par. 2 of Directive 91/308 may be subject to several interpretations, so that the precise stretching of the information and cooperation obligations incumbent on lawyers is not unambiguous. In this regard, according to a constant case-law, when a text of derived Community law can receive more interpretations, it must prevail over that interpretation which determines the conformity of the provisions with the EU Treaty rather than that which leads to the finding of its incompatibility with the EU Treaty.

Indeed, Member States do not only have the obligation to interpret their national law in a manner consistent with Community law, but also to ensure that they are not based on an interpretation of a text of secondary law that would conflict with the rights Fundamental rights protected by the Community legal order or other general principles of Community law (Lindqvist Case, Decision of 6.11.2003 par. 87 in the Code of Criminal Procedure annotated (Neagu, Damaschin and Iugan 2018, 181).

Conclusions

For the observance of the right to a fair trial, it is necessary, among others, the guarantee of the right to defence of the person accused. In order to assure such right, it is necessary that the suspect or defendant, who has no financial means to hire a lawyer, to be provided by state specialised defence (by lawyer) so as any individual committing an infraction is held criminally liable according to his/her guilt.

It should be noted that article 6 of the D.E.O. Convention on the right to a fair process is an incident from the time of a criminal prosecution, and from this moment the accused person must have a lawyer in order to prepare the defense, because the defendant was in a position of vulnerability. This way, by the presence of the lawyer, he assures the defendant that he will not contribute to his own indictment.

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Theoretical and Practical Aspects of the Infringement of Myth Hole in Romania

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ABSTRACT: It is widely known that corruption worldwide generates harmful effects, affecting the economy of the whole planet over time, the good development of social relations and the trust of citizens in their own state, governors and civil servants. Taking bribes is one of the most serious offenses under the Romanian Penal Code, which is also the result of the punishment stipulated by the law to be applied to the persons committing such offenses. In order to prevent and combat this harmful phenomenon, the Romanian legislature regulated in a special law higher punishments for committing the bribery offense for persons occupying a certain position in the state or having a certain quality, circumstance which increases the degree of social danger created for social relations protected by the rule of criminalization. This paper aims to deal with the constitutive content of the bribery offense in Romania and to present relevant judicial practice issues in this field.

KEYWORDS: bribery, corruption, jurisprudence, punishment

Introduction - Concept, Object and Subjects of the Offence

The concept of “corruption” has a secular and a legal connotation. The need to criminalize corruption is not a novelty of the present or Romanian society in particular. These crimes have been incriminated ever since the beginnings of human society. The most representative corruption offense has been and continues to be the crime of bribery. The protected social value is the honesty of state officials who do not have to demand or receive any additional benefit for the exercise of public office, nor should they sell the benefit of their status to those who are interested in a particular conduct of their own. It is certain that a corrupt society generates multiple negative effects in terms of its functioning (unfair competition, correct hierarchy of value, etc.). This finding led the legislator to criminalize corruption in the private environment as well. The decision to criminalize corruption in the private environment is also justified by the corruption conventions to which Romania is a party, conventions which have drawn the task of the signatory states to criminalize corruption in this plan. Such a decision is not a matter of novelty, because, including in the previous regulation, corruption in the private environment was incriminated (Bogdan, Șerban, Zlati 2014, 413).

Corruption has existed and has manifested itself since ancient times. Corruption is the greatest enemy of democracy. Conscious of the particularly serious problems that corruption generates over general socio-economic development, the world’s states, individually or together, are trying to identify the most effective means of halting it (Voicu and Boroi 2006). The issue of corruption is at the center of public attention in the European Union. The EU, the World Bank and other European institutions regularly assess corruption and its implications on the economic and social level (Dascălu, Ghinea, Negoită and Moilat 2012, 12).

According to Penal Code enforced on 1st of February 2014 (published in the Official Gazette of Romania No 510 of 24 July 2009), the offence of bribery represents the civil servants’ act who, directly or indirectly, for himself or for another person, pretends or receives money or other advantages which are not entitled to him or he accepts the promise for these kind of advantages, for the fulfillment, non-fulfillment, urging or delaying the fulfillment of a task that enters into his duties of service or in connection with the performance of an act contrary to those duties (Article. 289 para. (1) of the Penal Code). It is considered also a bribery offence, the felony committed in connection with the non-fulfillment, the delay in the performance of a service duty or in connection with the performance of an act contrary to that duty performed by the person exercising a service of public interest for which he was vested in the public authorities or which is subject to control or oversight of the fulfilment of that public service (Article. 175 para. (2) of the Penal Code).

The legal object of the offence is represented by the social relations that impose the interdiction of receiving some amounts of money or other advantages by the civil servants who perform a certain activity that implies the exercise of the state authority. We can declare that, even if the offence of bribery is to be found in the chapter referring to the corruption offences, this is a genuine service offence.

Regarding the **physical object** of the bribery offence, it should be noted that this cannot have such an object, the money or the undue advantages representing the offence's product and by no means its physical object (Rotaru, Rose and Cioclei 2018, 218). In this sense, it was also ruled the supreme court by Decision no. 1789/2003, according to which *"taking bribery doesn't have a physical object because the money or the advantages are object of the bribe and not an object of the offence"*.

The active subject of the bribery offence is qualified, he may be a public servant, as defined by article 175 of the Penal Code (Udroiu 2014, 342).

Civil servant, for the purposes of criminal law, is that person who is permanently or temporarily, with or without remuneration:

a) Exercises powers and responsibilities, established under the law, in order to achieve the prerogatives of legislative, executive or judicial power.

b) Exercises a function of public dignity or a public function of any kind.

c) Exercises alone, or together with other persons, within the framework of an autonomous direction, of another economic operator, or a legal person with full or majority state capital, tasks related to the performance of the object of its activity. However, the active subject of the offence can also be a private official (The private official is the person described in art. 175 para. (2) of the Penal Code) and under attenuated version, certain civil servants with special status, as referred to in law 78/2000 (Article 7 of Law no 78/2000 refers to persons who: a) exercise a function of public dignity; b) He is a judge or prosecutor; c) It is a criminal investigation body or has a finding or sanctioning of contravention tasks; d) is one of the persons referred to in art. 293 of the Penal code). Thus, they may have the status of civil servant, for the purposes of criminal law, and, therefore, may be considered active subjects of the offence of taking bribes the MPs, ministers, magistrates, those exercising a public office chosen or appointed, the President of Romania, Judges of the Constitutional Court, civil servants from institutions such as the Presidential Administration, the Court of Accounts, the Ombudsman, local elected officials such as mayors, presidents of county councils, but also those occupying positions assimilated to public dignity, teachers, doctors, public notaries, officers of the court, interpreters, translators, administrators and judicial liquidators.

It is to be noted that in relation to the persons who may have the status of an active subject of the bribery offence provided for in art. 7 para. (1) lit. c) of Law no 78/2000, the High Court of Cassation and Justice, in solving the matter of law, decided that: *"The provisions of art. 7 para. (1) of law 78/2000 for the prevention, discovery and sanctioning of facts of corruption, shall apply only where the offence of bribery has been committed by the perpetrator in relation to his or her duties of service concerning the finding or penalties"* (Decision No 2/25.01.2017).

Regarding the quality of the doctor as active subject of the bribery offence, according to national case-law it is established that *"the doctor employed with work contract in a health care institution from the public system, he has the quality of civil servant under the acceptance of articles 175 paragraph (1) letter b) 2nd thesis from Penal Code"* (Decision No 26/03.12.2014).

In case the doctor is employed in a private health care institution, he will be responsible for the offence of taking the bribe according to watered-down version foreseen by article 308 of the Penal Code. In the case-law, it has been discussed the issue if the doctor who receives extra payments or donations is an active subject of the bribery offence. The Supreme Court has discussed this problem also, by pronouncing a decision according to which *"The public health care practitioner's act, who is a public servant, of receiving additional payments or donations from patients, according to art. 34 paragraph (2) of Law No 46/2003 on the rights of the patient does not constitute an exercise of a right recognised by law that could attract the incidence of art. 21 para.*

(1) of the Penal Code” (Decision No 19/04.06.2015) meets the conditions for the existence of the bribery offence.

The criminal participation is possible in all forms. Thus, a person may be an author, co-author, instigator or accomplice to the commission of a bribe-making offence. It is important to note that in order to be a co-author, a person must have the quality required by law to respond criminally to the offence.

Constitutive Content of the Bribery Offence

The objective side of a crime consists of three components: the material element consisting of the action or inaction prohibited by the rule of criminality, the immediate follow-up which represents the dangerous social humiliation laid down in the norm of crimination and the causal link between them.

In the case of a bribery offence, the material element of the objective side consists in claiming, receiving or accepting a promise of money or other undue advantages. The existence of the offence requires the fulfillment of essential conditions attached to the material element. In this respect, a first condition is that the act relates to money or other benefits that are not entitled to the public servant. A second condition relates to the fact that the action or inaction falling within the composition of the material element must be committed in relation to the fulfillment, failure, urgency or delay of the fulfillment of an act entering the duties of service of the active subject or in connection with the performance of an act contrary to those duties.

It is very important to mention the fact that in case it fails to perform the act or it performs an act contrary to his service duties, are considered criminal offences and will not be absorbed into the content of the bribery offence but will be considered a concurrent infringement (It is, for example, the case of the policeman who after taking bribes draws up a report of the finding of a false contravention. In this situation, it is considered a concurrent infringement of bribery and false intellectual and not a single bribe-taking offence). Bribery may be considered a concurrent infringement with influence traffic if the public servant is not confined to receiving money for himself but, following the remitting of money, he also influences other people for the purpose of failure to perform their duties.

Immediate follow-up is a state of danger for the service relationships within the institution or authority where the bribed official operates. The causal link arises from the materiality of the crime.

Subjective side. The offence of bribery is committed with direct or indirect intent. In older practice, the main evidence demonstrating the committing of a bribe-taking offence was setting up a sting operation. Nowadays, the investigating bodies use in the vast majority of cases the denunciation and technical records. It is to be noted that for the conviction of a person it is not sufficient to formulate a denunciation, its non-corrosion with other means of proof, unassuming the presumption of guilt.

In that regard, the Supreme Court, which in a decision ruled that “*The presumption of innocence shall be rejected only by the proven certitude of the defendant's guilt. If that certainty does not exist, the presumption of innocence works and is supplemented by the principle that any doubt is interpreted in favour of the defendant*” (see Decision No 343/2012).

The offence of taking bribery, being a particularly serious offence, is punishable by imprisonment and moreover, against the public servant may also apply a complementary punishment consisting in prohibiting the exercise of the right to occupy a position or to exercise the profession or activity in which he committed the deed.

Conclusions

The corruption, being a phenomenon that affects the entire planet is necessary to be combated by implementing at the level of each country some precise punishments. But, even if this phenomenon has reached a very high level, I consider that it is necessary that the states should punish the persons who commit acts of corruption, repeatedly. It's not indicated that in the case where a person commits several acts of corruption to be punished very harshly. In fact, there should be implemented some regulations

that could stop the application of the so-called giraffe punishments, which are, in fact, penalties of a very high amount which are not justified, in relation to the actual social hazard caused by the committing of criminal offences of corruption.

From my point of view, the taking or giving of bribes could be included in the category of natural crimes, as Cesare Beccaria classifies, these being crimes which, in any social system, could be identified and classified as such. Even if the new criminal code brings a reformulation of the bribery text in an attempt to boost the fight against corruption, in my view, the apparent failure to comply with the EU's obligations to reduce corruption and combat it was not generated by the lack of criminalization texts, but was and is generated by the tolerance of justice and politicians towards this phenomenon. From my point of view, the form of criminalization crimes cannot itself affect the effectiveness of the fight against corruption.

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Brief Considerations on the Relevance of the Inter-Religious Dialogue for the Mediation of the Conflicts and the Abolition of the Religious Violence from an Orthodox Perspective

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ABSTRACT: In a globalized world, where the poverty from side of the world is in contrast with the richness of another part, where the big cultures try to put in the shadow the small cultures of the world, religion will assume as main missionary objective the research of the manner in which the ethical discourse, the spiritual values and the philanthropic actions - determinant markers of any contemporary religion – can mediate the conflicts, the disputes and the violence inspired by religion or with inter-religious connotations. We intend to present brief considerations on the capacity of the institutionalized Christian religion to fulfill, through dialogue, the ontological and social vocation for the absorption of the violence through an irenic social-philanthropic action inspired by religion.

KEYWORDS: postmodernity, person, Christian ontology, inter-religious dialogue, religious conflict

The significance and the topicality of the inter-religious dialogue

Professor Andrei Marga (2003, 30-31). wrote that “no other awareness of the human condition has nowadays the conciliation potential of the Christianity.” In fact, Christianity is, essentially, the religion of the non-violence and non-aggression (Rotaru 2014-2015, 61-63), defying the divine call for peaceful living (“...*be of one mind, live in peace. And the God of love and peace will be with you*” – 2Corinthians 13:11). It is the religion that, by receiving Our Saviour Jesus Christ as the Prince of Peace (*Isaiah 9:6*), calls continuously and programmatically to global peace (“*If it is possible, as far as it depends on you, live at peace with everyone*” – *Romans 12:18*).

The Christian message, although disseminated worldwide (A. Mc. Grew) – even if only due to the fact that globalisation (Rotaru 2014, 532-541) facilitates the quasi-universal circulation of the religious values, addresses to all ethnical, national, cultural, confessional, etc. communities, which are more and more fragmented and indifferent to the others (Hans-Georg Soeffner). Christianity tries to impregnate with its irenic teachings a world that becomes day by day a world lacking harmony and cohesion. This world is characterised by social inequity, a tough fight for material resources, extremism and radicalism, disorder and chaos (Ică & Marani 2002, 482).

In these circumstances, the Church considers that the permanent and thorough inter-religious dialogue as a possible solution for the salvation of the irenic vocation of the man and of the human society. As father Nicolae Achimescu (2013, 395). wrote, the disharmony of the world “urges the Orthodoxy to appeal more to dialogue”, “without betraying its own identity.” The dialogue represents a continuous enrichment of relating with people of different religions, based on the love for all humans, becoming necessary, more and more, as a way of living that is absolutely necessary in a world resembling to a “global village” (Marshall McLuhan) (Tomlinson 2002, 12). Therefore, the Church will not evade from carrying its message (Rotaru 2017, 57-76.) to those who do not know Christ, because the dialogue is “the expression of a state of grace” (Achimescu 2013, 373). Even if, people as the American political scientist Samuel P. Huntington or the Catholic theologian Hans Küng highlighted mostly the capacity of the religion to socially separate, the Orthodox Church, without denying their observations, will highlight more than anything the connection of the religious beliefs with the desiderate of the reciprocal understanding. The Orthodox Church will affirm the fact that “religion does not separate us and neither brings us together unless we use it for these specific purposes” (Nicolae Achimescu). Toward all those who do not institutionally belong

to it, as well as toward those relating to God exclusively through the natural revelation, the Church will admit, with humbleness, the possibility of the work of the Holy Spirit, with a universality lacking any exclusivism (*“Where can I go from your Spirit? Where can I flee from your presence?”* – *Psalms* 139:7) In fact, the work of the Spirit who “is in all and not absent in any being, especially in those with reason” (Sf. Maxim FR,48) transcends the visible limits of the Church. It encourages and comforts (*Acts* 9:31), gives advice (*John* 14:16), prays for us (*Romans* 8:27) and fights to eliminate the fake or idolatrous axiological references inserted by idols in the human consciousness, attempting to put the real God in shadow, for the reason that “that ‘An idol is nothing at all in the world’ and that ‘There is no God but one’” (*1 Corinthians* 8:4).

From a theological perspective, the inter-religious dialogue – a permanent and actual form of expressing the universal vocation of the Church – will have as final fundament the cosmic dimension of the Trinity’s work, similar to the manner in which “resting in us, Our Saviour Jesus Christ, through the Holy Spirit, is together with His Father” (Sf. Chiril, 898). Implicitly, the dialogue of the Church with those outside it, will be developed from a Christological and pneumatological perspective, more precisely in the spirit of the cosmic involvement of the sacrifice and resurrection of the Saviour (*“For since death came through a man, the resurrection of the dead comes also through a man”* – *1 Corinthians* 15:21), corroborated with the universality of the work of the Spirit, Who “...will teach you all things and will remind you of everything I have said to you” (*John* 14:26). This aspect was highlighted by theologians, many times as different in formation as Paul Evdokimov or the Protestant Stanley J. Samartha (Achimescu 2006, 31), the last one known as a supporter of the rapprochement between the important institutionalised religions. Therefore, the Church understands that the inter-religious dialogue is in connection with the will and work of God (because “nothing exists outside the will of God and without Him watching over it”) (Sf. Vasile cel Mare, 176). Until one point, we only can highlight the secondary role of the human agents in the establishment of the relations required by dialogue (Coman 2005, 335-336), because *“the man can do nothing by himself, without the help of God”* (*1 Corinthians* 3:5-9).

Beyond the Christological and pneumatological dimensions, the dialogue with those belonging to another faith presents a strong anthropological determination, based on the ontological unity of the human kind, because *“from one man he made all the nations that they should inhabit the whole earth...”* (*Acts* 17:26) Therefore, no matter their confessional positioning, the people “have as fundamental feature the image and the likeness to God” (Achimescu 2006, 53). Implicitly, the human kind will have as common ground the inclination for religiosity, the inclination to the faith in transcendence, and the vocation of relating to the sacredness. All the people have the compatibility and the similarity of their religious aspirations and expectations (Sârbu 1969, 511). On the other hand, because Jesus Christ “defeated death through His death” (St. John Chrysostom) and God *“...wants all people to be saved and to come to a knowledge of the truth”* (*1 Timothy* 2:4), the ontological unity of the humanity is completed with a unity of destiny. Ultimately, the transcending of the present human condition, in order to overcome suffering and death, toward an eschatological finality of the world, fulfilling the man as rational being, is universal and unanimous. This process breaks all the differences and particularities of cultural, civilisation and religious belief. In fact, God-Word answered directly to the universality of the eschatological aspirations in the human mind, through the cosmic amplitude of his saving work. St. Athanasius the Great wrote: “We [the human kind] were the reason for His coming [...]. We were the reason for His incarnation. He was moved by His love for the people...” (Sf. Atanasie cel Mare, 93) As result, from the perspective of the Church, *“...the pillar and foundation of the truth”* (*1 Timothy* 3:15), the other religions will also possess pieces from the Truth embodied in the person of the Saviour (Vasilescu 1982, 411), as “echo of the primordial revelation or as effect of the action of *Logos Spermatikos*, followed by the coming of the perfect Logos [Jesus Christ]” (Achimescu 2006, 59-60; Rotaru 2005, 295-324). By treasuring and bringing to fruition in the religious discourse and practice some fragments of the Truth, even if in a deformed manner, the possibility of the Church to enter in dialogue with the non-Christian religions is saved. The dialogue with those of other faith requires opening, sincerity and kindness, because the one believing in Christ *“must seek peace and pursue*

it" (1 Peter 3:11). The peace promised by the Saviour (John 14:27) must "rule in your hearts" (Colossians 3:15). Approaching an inter-religious dialogue, we must first bring to fruition the statute of being capable to love and to highlight all the love we can offer, because "anyone who loves God must also love their brother and sister" (1 John 4:21), excluding entirely the displaying of a pretended or authentic theological superiority (Achimescu 2006, 20-21). Due to the fact that the man of this century has the ability to recognise the human unity in nature, beyond the diversity of the hypostases, the dialogical state receives the attribute of restoring the consciousness of the human ontological communion.

The inter-religious dialogue will not be able to avoid the interaction of the doctrine content and the apologetically and/or missionary approaches. Therefore, the preservation of the dialogical state will require the avoidance of dogmatically/doctrine blockages, because all the big religions have the natural tendency to unconditionally protect the factors of their identity. In fact, the reason of the dialogue does not reside in the display of the presumed superiorities/ particular theological authenticity, but in the attentive search of the uniting elements and in their highlight, finding consensus, no matter how limited it can be. From this perspective, the Orthodox Church understands that each non-Christian religion underlines, in its own way, the manner in which the general human aspirations for finding and restoring the communion with the Creator are integrated and institutionalised (Achimescu 2006, 79). The work of the Grace, even if universal and continuous, is uneven, depending on the manner in which the believers/communities/religion relates to God, more or less affected by the ontological faults following the original sin (Achimescu 2006, 78).

Violence from an Orthodox perspective

The lack of harmony and balance, the conflict, the aggression and the violence are all conjugated with the fallen man, bearing the burden of the sin. Therefore, they are artificial and unnatural (as death also is!) in relation with the authentic humanity, as described in the *Genesis* 1:27 ("So God created mankind in his own image; in the image of God he created them..."). As all the other faults, violence becomes possible (and explainable) by the fact that "the fall suppressed the image of God" (Evdokimov 1996, 98) in the man, and, if not totally abolishing/pervverting it, made this image transparent for the evil and capable to do the evil, in the same degree as doing the good. In essence, any passion, any evil for which a man can be blamed, shows the alienation of the human condition after the fall. Violence, as any other inclination for evil, comes together with "the garments of skin" (*Genesis* 3:21) – a measure for the distance of the man from his divine humanity, the fall in a state similar to the nature [...] an offence, a punishment, and a wound" (Moşoiu 2000, 152). The daily proves of violence must not deceive us; even if the persistent violence can discourage and its effects are many times tragic, violence is and remains strange to the profound man, to the man created in the image of God, with the aim to be in His likeness, because, as St. Isaac of Syria said, "the passions are not from the soul, but from something added to the soul."

By falling, "Adam did not fulfil his call; he did not know to reach the union with God and the godliness of the created world" (Losski 1990, 161). On the contrary, believing that his freedom was somehow limited by a communion with God, built on obedience, Adam deliberately rejected the "garments of light", refusing to be any more a part in the love communion of the Holy Trinity. In his disobedience to God, Adam affirmed self-sufficiency and his nature become incompatible with the Heaven ("So the Lord God banished him from the Garden of Eden ..." – *Genesis* 3:23), revealing the fact that "the kinship with God does not automatically mean that the man dwells on the path desired by God" (Moşoiu 2000, 158). Implicitly, Adam's nature changed and his image darkened; his horizon suddenly sank in materiality ("By the sweat of your brow you will eat your food until you return to the ground, since from it you were taken" – *Genesis* 3:19), losing the original spiritual amplitude. By disobedience, Adam become, ontologically speaking, another man; he became the slave of the human condition, who, starting from him, will (because "...sin entered the world through one man" – *Romans* 5:12), the human kind perpetuates – and will continue to perpetuate until the eschatological end - the fallen nature of the "garments of skin"; thus, we can say that, without any exception, we are "the offspring of a dark lineage" (St. Macarius of Egypt).

Beyond all these, the (cruel) reality is that the human nature falls completely when it becomes compatible with the violence. We understand by compatibility the use of violence (and, implicitly, all the similar social behaviour), although, in essence, is not a general or inevitable aspect; it is instead only possible when the extreme narrowness of the capacity to perceive and understand make the man unable to recognise his fellow man “as partner in a dialogue of love” (Stăniloae 1996, 326). The sin brought to the man the claimed certitude of the solitary and self-sufficient individual. Adam’s descendants are in the impossibility to experience the fact that “there is only one common nature for all the people” (Losski 1990, 149). The fallen man became a solitary man, who, while rediscovering his vocation for communion, builds social entities based in subjective and relative criteria. For the fallen man, estranged from God and stranger to the fellow men, the dispute, the conflict, the aggression and the violence are “means” to impose his own interests in the detriment of other interests, which are, in the end, justified in the same manner. The inner world of the fall will be completely divided; the society of the people, shallow and incongruent, will be reunited from a multitude of fragments, with perpetual tensions and unsolvable antagonisms between them. This diagnose is entirely valid for the religious violence. Cain, the son of Adam and Eve, was the first man to use violence to solve a religious dispute, because “*By faith Abel brought God a better offering than Cain did...*” (Hebrews 11:4). The religious violence has been accompanied the development of the civilisation and its ancestral roots are still grounded nowadays. Obviously, the particularity of the causes depends on the tendency of each religion to claim the exclusive possession of the Truth and to absolutize its own norm of faith, in the detriment of other religions. Jean Delumeau wrote: “various religions exult, each in its own language, the wisdom and the compassion, the sincerity and the humility, precious common values that nobody wants to see disappearing” (Achimescu 2013, 20). In this somehow paradoxical situation, the Church will see no more than a crash of the fragments of Truth that, unfortunately, are not able to recognise their common origin and perceive the other fragments as antinomical. This generates the temptation to use other means, including the violence, in order to impose a specific fragment of the Truth. In the same time, this is also the origin of intolerance and fanaticism, factors that, in the end, will affect the freedom (the religious freedom, in our case), which is claimed so strongly by the fallen man.

Choosing to abandon the communion with the Holy Trinity – “the structure of the supreme love” (Stăniloae 1970, 333 – 355), the man also renounced to the harmony in the relation with the other people replacing it, in a subjective and improper manner, with a monologue animated by the “selfish disobedience, pride and desire” (Stăniloae 1970, 324). Taking refuge in a strange and hostile world, invariably perceived as exterior, which transforms the love and the freedom in simple desires, the fallen man sees the violence as an extreme, but eligible solution for expressing options and reaching ideals. Once they enter the sphere of the religious beliefs and practices, the man will risk to rediscover and live again Cain’s tragedy, who only received from Yahve banishment and permanent estrangement, due to his extreme gesture (*Genesis* 4:16-21), together with a permanent feeling of guilt (Dumea 2011, 80).

The inter-religious dialogue *versus* religious violence from an Orthodox perspective

The inter-religious dialogue, developed in the manner highlighted by the Christian philosopher of the religions Seiichi Yagi – with sincerity and opening, can contribute to the limitation of the confessional violence, and to that of the general violence, is already a fact for us. Once established, the inter-religious dialogue will fulfil the first step in the process of reciprocally knowing and relating, initiated by the big religions – the effective acknowledgement of the religious pluralism, of the global “religious diversity” (Paul F. Knitter). This acknowledgement, hurried by the ongoing globalisation, cannot be ignored anymore. The inter-religious dialogue will generate beneficial effects for the inter-confessional tensions, disputes and conflicts by placing all the religions of the world in “an environment of opening, trust and reciprocal responsibility”, starting from the premise of the liberty of consciousness and faith as primate, because “the [religious] pluralism is naturally connected with the religious liberty” (Achimescu 2013, 511-512). In these circumstances, the dialogue will be “a modality to gradually achieve a community life, based on reciprocal knowing and understanding”, affirms as an action for the “common search of

the liberty” and as “a common effort to progress in the direction of the Truth” (Achimescu 2006, 17-18). Implicitly, it will cultivate “an attitude of love and respect for the people with another faith” (Achimescu 2006, 22) and will induce a possible reduction of the violence used to solve any differences. The responsibility of the Orthodox Church in the orientation of the inter-religious dialogue toward these coordinates is important because it possesses the Truth: “*I [Christ] am the way and the truth and the life. No one comes to the Father except through me.*” (John 14:6). Therefore, the main foundation of the dialogue will have an Christological nature (Nicolae Achimescu), because “Christ removes us from our isolation and connect us with all our fellow men” (Achimescu 2006, 19); He is “*The true light that gives light to everyone was coming into the world*” (John 1:9). The incarnation of Christ gives the measure of the human unity, because it was made for “the rational people lost and ruled by death through sin” (Sf. Atanasie cel Mare, 99), in other words for the entire human kind. All the human differences disappear in Christ, because, in His theandric person, Christ represents the enhypostasis of the human nature (St. Leontius of Byzantium). In Christ, “*there is neither Jew nor Gentile, neither slave nor free, nor is there male and female...*” (Galatians 3:28). The inter-religious dialogue is called to value the universal character of the Word made human and the common eschatological destiny, because the sacrifice and the resurrection of the Saviour aims, implicitly, “*to be put into effect when the times reach their fulfilment—to bring unity to all things in heaven and on earth under Christ*” (Ephesians 1:10).

In essence, the understanding and the development of the inter-religious dialogue as a pragmatic expression of the love working for the fellow people, is equal to “a happy affirmation against chaos, as a cooperation of all the partisans of life, in their search for a better human community”. Therefore, the dialogue can be put in connection with a graceful state directly derived from the work of the Holy Spirit (Achimescu 2006, 21-23), Who “*...will teach you all things and will remind you of everything I have said to you*” (John 14:26), especially when “few Christians know enough things on the work of God in other religions” (Wilfred Cantwell Smith). Therefore, we consider that there is normal and natural to assume techniques that are proper to the desire to limit the disputes and eliminate the inter-confessional violence in the dialogical space with the non-Christian religions.

The most basic reason is the accordance with the peace message of Jesus Christ (“*Let the peace of Christ rule in your hearts, since as members of one body you were called to peace*” – Colossians 3:15). In fact, peace is a divine gift from the Father (“*the peace of God, which transcends all understanding, will guard your hearts and your minds in Christ Jesus*” – Philippians 4:7), the Son (“*Now may the Lord of peace himself give you peace at all times and in every way*” – 2 Thessalonians 3:16) and the Holy Spirit (“*the fruit of the Spirit is love, joy, peace...*” – Galatians 5:22). We all must search this gift in us and put it to good work, because the eschatological salvation depends on it, for us and for those urged by us to find the peace (“*Blessed are the peacemakers, for they will be called children of God*” – Matthew 5:9; “*Make every effort to live in peace with everyone and to be holy; without holiness no one will see the Lord*” – Hebrews 12:14).

Moreover, this type of vision on the inter-religious dialogue manages to prolong and concretise the archetypal value of the Christian love. This love, united with the faith (I Petru 1:8) and the obedience to Christ-God (“*Whoever has my commands and keeps them is the one who loves me. The one who loves me will be loved by my Father, and I too will love them and show myself to them.*” – John 14:21), is plenary expressed in loving the fellow man (Ică & Marani 2002,19). Entering in this dialogue, the man will find himself as person, acknowledging all the others as particular hypostases of the same nature, similar to the perichoretic communion inside the Trinity (Stăniloae 1996, 277), and will be able to value his entire potential, unlike the Athenian individual or the Roman citizen, opening to the others as opening to God (Ziziaoulis 1999, 24). By recognising the natural aspect of living in communion, the person will assume the ontological unity of the creation based exclusively on the love and goodness of God (Origen, 165), created and supporting a space illuminated by grace, for living with the other, through the other and for the other. According to Father Manolache the person represents the opposition of the solitary existence and will refuse the division, the distance and the separation, perceiving the unconditional remanence of the divine image in the man as the main ground for co-existence and love for the others. By assuming the

condition of person, the man will understand that any ethnical, cultural, civilizational or religious individualism is artificial and derails him from the real vocation for communion. The opening resulted from the quality of person will absorb all the antagonisms that fragment the humanity: *ethnical and national antagonisms, because the Truth overcomes the separation between the individual and community; national and universal antagonisms, and, in the same time, religious antagonisms, due to the incontestable universality of the Saviour's call: "that all of them may be one, Father, just as you are in me and I am in you" (John 17:21).*

Conclusions

If we will try to depict the areas in which, beyond the legitimate and relevant results, the contemporary inter-religious dialogue can have a pragmatic finality, then *the limitation of inter-confessional misunderstandings, disputes and violence would this space.* Therefore, it is normal to expect – through a continuous dialogue with the non-Christian religions, *in a spirit of sincerity – a decrease of the inter-confessional tensions, at least as effect of the fact that the religions discuss one with another, even if they could not identify before any common references.* Acknowledging this capacity, perhaps unique, of the inter-religious dialogue, we must admit that this capacity is a result of the Christological and pneumatological content of the dialogue. Therefore, the faith of the Church in Christ, in His sacrificial death, *"reconciling the world to himself in Christ" (2 Corinthians 5:19),* will stimulate the preoccupations for an open dialogue, practiced as work for aspirations of good, love, peace, and harmony, which are the common values of all religions.

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“White Terror and Ghosts of Kenya”: Postcolonial, Socio-Political Imagery and Narratives of Kenyan Diasporas

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ABSTRACT: “White Terror” (2013), a BBC documentary details colonial atrocities in Kenya and thereafter state of emergency. I argue, ghosts (memories) of the atrocities still haunt a few remaining colonial survivors. Socio-political colonial structures were inherited in post-independence Kenya. The documentary based on Harvard’s History Professor Caroline Elkins (2005) research was evidenced in a legal suit of five colonial survivors against the British government for torture. Post-2007 ethno-political conflicts in Kenya can be linked to misappropriations in the 1954 Swynerton land tenure reforms. British occupation of native land sparked an insurgency that resulted in a state emergency (1952-1960), and later turned into struggle for independence. To Kenyans, Mau Mau (largely Kikuyus) were freedom fighters, but inhuman savage terrorists to colonial agents. Geographical annexing of land placed the Kikuyu, a dominant ethnic group close to the colonial capital, while the rest of the tribes were disbursed in the peripheries. In postcolonial Kenya, political and economic disparities herald power struggles between dominant ethnicities, in the case of Kenya; Kikuyu, Luo and Kalenjin. Postcolonial theory was a result of colonial experience, “the testimonies of the third world countries and discourses of minorities within geographical and political divisions of “East and West”, “North and South” (Bhabha 1994). First generational Kenyans survived colonialism, but retain narratives of the struggle over colonial domination. Using a postcolonial and discourse theoretic qualitative methodology for documentary and interviews analysis, this paper traces narratives of postcolonial Kenya and impacts on present day social political challenges.

KEYWORDS: postcolonialism, socio-political narratives, colonial imagery, post-independence Kenya

Introduction

Kenya in the 1800s before the arrival of colonialists was a sparse land ungoverned, un-industrialised and idyllic. There were unexplored cultures that determined social and political interactions between communities strewn across the land. Colonial Kenya under the British empire was referred as the White Man’s Country. “White man’s land” was invented as an expression describing 19th Century European colonization of Africa into patchwork of colonies, the exploration and exploitation of resources (Morgan 1963). Galia (1995) argues that the myth of Kenya Colony, functioned through recursive tropes of the picturesque, the transcendent and the primeval that are manifest not only in the writings of colonials themselves, but also in accounts of Kenyans produced in the period after independence. I argue, existing hegemonic and counter-hegemonic narratives on colonialism in Kenya in the public sphere, particularly Western media and academia emanate from knowledge and experience of a colonial past and a modern world. This way, the narratives encompass North’s (2005, 112) submission that development of British institutions in Kenya made a stage for the advancement of structures of impersonal exchange, which acted as foundations of long term economic development. To illustrate, Africa was lucrative with rich raw material essential for the rapid industrial revolution in the West at the turn of the 19th century. Yet, it was derogatively referred to as “the dark continent.”

The aim of colonialism was to import an ideology of enlightenment to illuminate the continent through education, religion, social and economic culture. Under the philosophy of three Cs, civilization, Christianity and commerce, Africans were relegated to bear the colonial presence as forced labourers or conscripted soldiers. Some were pushed in settlements camps or homelands as in the case of South Africa, Rhodesia now Zimbabwe and Kenya (Elkins 2005). The methods were to ensure absolute dominance and maximization of profits from land and labour for commercial purposes. Guha (1989) avers, whereas the European bourgeoisie had come to power by forging a hegemonic coalition with workers and peasants, there were no parallel experiences of power in colonial world. Rather, the main concern of the colonial agency was to exercise

dominance, but not hegemony. The imperial colonial envoys would bring a complete metamorphosis in the way and life of indigenous communities found in Kenya, like many other African colonies. The rhetoric joke became, “whether you were married or lived in Kenya” - a satirical attitude of Kenyan settlers described as promiscuous and morally arrogant (Elkins 2005). Such postcolonial inferences challenge imperial misrepresentation and disavowal of African morality which is not only a form of social essentialization but also enacted geopolitical divisions.

Having established that decisions to determine affairs of Africans occurred without their consultations, we can consider that Africans were confronted with colonial boundaries. For instance, in Kenya, citizens were separated along ethnic lines. Thus, ethnic marginalization continues to bear negative effects on the country’s social and economic makeup. Ndege (2009, 3) avers that in Kenya, colonial boundaries are to blame for negative tenacious ethnic aggression that emerged as communities competed for colonial resources. At the onset of colonialism, Kenya was composed of peoples of ethnic groups and lineages. They shared common bonds through marriages, trade and seldom had territorial warfare. Pre-colonial Kenyans had a traditional political organization headed by chiefdoms and scant kingdoms like that of Nabongo Mumia in the Western part of Kenya. Their religious preserves were connected to nature and deities. The economic activities of the people of Kenya were based on barter trade, mongering, pastoralism and farming. Communities exchanged goods and services to sustain their economic livelihoods. Kenya of the 1800s had idyllic, rudimental, yet, essential social and economic pursuits that were not recognized within the Eurocentric definition of modernisation. However, these activities were essential in sustaining communities and varied regarding geographical placements. Elkins (2005) provides that the Kikuyu suffered a bitter fate of colonialism, when their lands were parcelled out for commercial farming. In the wake of colonialism, land remained an object of contention. Although there were pre-existing ethnic disparities in pre-colonial Kenya, its 44 tribes generated a livelihood dependant on geographical location. All in all, the economic mainstay centered on practices that were connected to the land. For this reason, Africans clashed with the colonial administration when they were forced from their lands into settlements. Suffice it to say, land resource was part of a native livelihood and determined the development of its society. Under the infamous Swynnerton 1954 land tenure plan, the land was leased first for 90 years, and later 99 years, to ensure that no African would have legal claim on land. Since Africans were prohibited from commercial farming, settlers capitalized on cash crops; wheat, coffee, tea, fruits and vegetables exported to Europe and other countries in the West.

The scramble for Africa and ensuing colonial occupancy, replaced established and sustainable development quests among Africans. The agency of colonialism introduced foreign, but seemingly acceptable ways of life. The fact that inhabitants of what soon became colonies of Africa, had lived peacefully within organized systems of practice was ignored. Previously, communities had survived in their natural habitat using available local resources for medicinal value, nourishment, and craft. Migration and settlement were characterized by a continuous intertwining of ethnicities. The movements were mostly in search for pasture and water, fertile land or for trade. Several authors Ndege (2009), Guha (1989), Elkins (2005), Slemon (1990) demonstrate that pre-colonial communities were nothing static, but with colonialism, they gained a new dimension, meaning, and shape. To the natives of the land, the new arrivals came loaded with foreign artefacts; medicines, weaponry and religious vestments.

Initially, their arrival was more like an episode of awe, rather than a threat to their way of life. This was to quickly change, European colonizers fostered an ideology of their racial superiority and a determination to conquer the massive earth surface (Slemon 1990). For those who survived the treacherous journey, their arrival signalled irreversible dynamics to the life of millions of inhabitants of the African continent. The scramble for Africa set in motion the first migration of Europeans to Africa as settlers, colonial administrators, and sojourners looking for adventure. In its search for suitable British settlers, those who would develop the colony’s production and accrue returns used to build the railway line, the British government launched a campaign to attract settlers of British stock to the colony. These were people who could capitalize on the territory’s agrarian

potential and produce cash crops for the world market. Settlers were urged to come and take advantage of the cheap land, abundant labour, and large potential profits. Advertisements in the British local papers enticed who would-be settlers to pick up their stakes and move to the colony.

Settle in Kenya, Britain's youngest and most attractive colony. Low prices at present for fertile area. No richer soil in the British Empire. The Kenya colony makes a practical appeal to intending settlers with some capital. Its valuable crops give high yields, due to the high fertility of the soil, adequate rainfall and abundant sunshine. Secure the advantage of native labour to supplement your effort (BBC Documentary: "White Terror", January 29, 2013).

Thousands of settlers responded to the call and migrated to Kenya in search of fortunes. They came determined to forge a "white man's country". Decades later, this tremendous migration would open counter migrations from Africa to Europe, what we now refer to as contemporary Diasporas. Child and Williams (1997) aver that large-scale immigration of groups from former colonies is a postcolonial phenomenon.

Literature Review

Scholarly work on postcolonial discourse theory feed on historical material on colonialism in New Zealand, Australia, Canada, West Indies, Asia, and Africa. Albeit, with huge disparities between former colonies in the global South and those in the North. Ashcroft et al. (1995) demonstrate that those in the North, Canada, Australia and New Zealand have in a short span ascended to the same level of social and economic representation to their imperial master, while Africa and Asia are still weighed down with the aftermath of colonialism. It is such disproportions that push people who have experienced colonialism to forge ways that resist imperialistic influence. Notable, through literature, academia, technological innovations and in this study, defining their own social and economic affairs through ideas on migration and development. Simone During (Xie 1997) defines postcolonialism as the requirement in countries or groups, which have been casualties of imperialism, to realize an identity uncontaminated by Universalist or Eurocentric concepts and images.

On the other hand, Xie (1997) contends that postcolonialism assigns an uneasiness to move past Eurocentric belief system, past colonialist's binary structures of 'self and other', and eventually past any form of racism. Some authors Ashcroft et al. (1995), Slemon (1990), and Said (1979) indicate that postcolonial authorship concerns literature in English from nations that were or are still colonies of other nations. The authors equate postcolonial theory to a political and ideological position of critics who undertake this analysis. Conversely, Childs and Williams (1997) have suggested that postcolonialism is much more to do with the difficult encounter of confronting the desire to recover 'lost' pre-colonial identities, the impossibility of doing so, and the task of building a new identity based on that impossibility. Anthony Appiah, a postcolonial critic argues that postcolonialism is the condition of what we might ungenerously call a 'comprador intelligentsia': a moderately small, Western-style, Western-trained group of writers and scholars who mediate the exchange in cultural commodities of the world capitalism at the periphery (Appiah 1993, 348). Appiah's discontent with his "Comprador Intelligentsia" is a critique of African cultural artists who are educated in the West, but use European approaches and insights to interpret indigenous African art.

The artists conjure images they deem suitable to sell to the West, at the same representing a desirable Western world to Africa. Thus, the idea is not to appreciate African art and heritage, but to use it for profitable pursuits, and thereby mimic Eurocentric attitudes. For Aijaz Ahmed, postcolonialism is unacceptable since it clearly benefits colonialism as the organizing rule of other people's histories (Ahmed 1991). Anne McClintock mirrors Appiah's ideas and positions orientalism as problematic. She argues, the concept suggests a commitment to a variety of Western ideas, linear time, advancement, all of which have troubled histories (McClintock 1992). In this paper, postcolonialism provides an impetus for understanding how the migration and development discourse has for a long time perpetuated Eurocentric narratives over African concepts. It gives some possibilities for alternative development strategies devoid of external influences. Postcolonial authors (Edward Said 1977; Gayatri Chakravorty Spivak 1986; Homi Bhabha 1983) expose

stereotypes like those found in development constructs. It is in considering such constructs that we begin to interpret the current socio-political and economic challenge that Kenyans grapple with. Post-colonial development in Kenya was disguised in “*Harambee*” functions (pulling together of resources). These were money collecting events, sometimes an excuse to exploit the public and engage in economic plunder. Kenyans understood development as joined efforts to raise monetary resources. Part of the money collected was put to good use, building infrastructure and enhancing services. However, colonial inequalities ensured that only regions with key political representations benefited from the development funds. Furthermore, misappropriation and abuse of resources would result in the marginalization of regions in the periphery, a reflection of the colonial era, where development was concentrated in the capitals which acted as colonial centers. Hence, the cultural indoctrination of development consciousness remains inherent in the historical makeup of residents as well as non-resident Kenyans, referred here as Diasporas.

Methods and Materials: White Terror Documentary

The British Broadcasting Corporation’s 2013 documentary “*White Terror*” was based on the research of Harvard’s History Professor Caroline Elkins (2005). It details the colonial atrocities and thereafter Kenya’s state of emergency in 1952. It was also published as evidence in the case where five Kenyans (one has died since then) through a law firm filed a suit against the British government for atrocities committed by British colonial agents. At the time, what is today considered as excessive was a normalized form of control and domination. Documentary analysis is a qualitative methodology that adopts aspects of discourse analysis. In Fairclough (1995) interpretations, discourse can mean ways of talking about things, or a process in which the social reality is formed. It is an articulation of knowledge and power, of the visible and the expressible.

In a modified adaptation of scientific classification, Bloor and Bloor (2007, 6,7) recommends possible distinctions of discourse as; a) the highest unit of linguistic description phonemes, morphemes, words, phrases, clauses, sentences and texts; b) as a sample of language usage, generally written to be spoken, in a form of speech; c) it alludes to the communication anticipated in one situation context, alongside one field and registers, such as the discourse of law, medication, or media; d) it can also mean a human interaction through any means, verbal and non-verbal, through sounds, movements, and images; e) discourse could also relate only to a spoken interaction; f) discourse stands for the whole communicative event. These distinctions suggest, discourse happens in a communicative event, which progressively produces expressions of power and knowledge. In the documentary analysis, we utilize visuals and the spoken word. In 2013, John McGhie, a BBC correspondent, held interviews with victims of the British colonial brutality. The documentary was produced following Caroline Elkins ethnographic research in the central region of Kenya, in villages where survivors of the horrors and their families live. Some respondents detail experiences on the concentration camps, hard labour and violent brutality. According to Susan Nyareri, women were not spared, they were caught between two warring factions and the Mau Mau. They were forced to give up allegiances to the Mau Mau fighters. They suffered beatings, starvation and death.

Video Clip: Susan Nyareri

At night, the Mau Mau would come and force us to give them food. Early in the morning, the security guards would come and force us to produce the Mau Mau, but we had no idea where they were. They had come in the night and left. Once they beat me with the baby on my back. I was to be excused from communal work because my child was sick. They said don’t worry, we have enough hoes and shuffles to bury your child if he dies (Kenya: White Terror 2013; Video Clip, Minute 20).

There are also clips of interviews with some British officials about their direct or indirect involvement in the brutality. In the 8 years during the state of emergency, thousands died. Elkins (2005) argues that the official figure of 10,000 deaths is faulty and estimates, there could be up to 50,000 or more killed. In

2013, the victims of the terror made 6000 dispositions to the International Court of Human Rights (ICHR). They were compensated over 50 million Kenya Shillings, similarly, in colonial times evidence of atrocities led to the closure of the labour camps and independence. However, the lifelong psycho-social effects on survivors cannot be compensated. For example, 82-year-old Mwangi Kanyari who fought in the Second World War. He lost his land and family and went to the bush to fight for reclamation of land, later turned to fighting for freedom.

Video Clip: Mwangi Kanyari

I was angry, after coming from the war, the British gave me nothing. They did not even consider me as having been one of them. They never remembered me. I was very angry to realize that for all those years I had just worked for the food I ate. They never paid me anything. I wanted freedom, I wanted that very much. They forced us into a war we did not want. None of us wanted war. When they declared the state of emergency they just started beating and killing us, none of us expected that (Kenya: White Terror 2013; Video Clip: Second 34 to Minute 1.20).

Kanyari was captured and put in the concentration camps as a forced labourer. There, he was tortured and castrated under the British authorities and Kenyan guards loyal to the regime. At the end of colonial reign and independence in 1963, he could not establish a family. Together with his wife Esther Kanyari, they decided to secretly get children sired by another man.

Video Clip: Esther Kanyari

They had castrated him in the camps. Since then, I have not been able to sleep with him. He could not give me any more children. So we decided that I should try to have children elsewhere to carry his name (Kenya: White Terror 2013; Video Clip: Minute 27).

John Nottingham a colonial official stayed in Kenya after independence, he is haunted by the colonial excesses and the emergency. He details the brutal savage torture and argues perpetrators must be condemned for war crimes to re-write the mockery of justice.

Video Clip Minute: John Nottingham

They described people living on the other side of the forest (Mau Mau) as people who had lost all contact with humanity and had virtually become animals. These were people who had to be totally destroyed. We had to solve this somehow and quickly as possible (White Terror 2013; Video Clip Minute: 3.15...What happened in the Kenyan camps was brutal and savage torture by people that have to be condemned as war criminals. The mockery of justice perpetrated must be re-written. I feel ashamed coming from a Britain that did what it did here (Kenya: White Terror 2013; Video Clip Minute, 39).

Discussion: White Man's Land: Narratives of Colonial British - Kenya

The scenario visualized in the documentary affirms that the colonial establishment had placed Africans under a suppressive disenfranchisement. Africans were rendered economically hapless, totally dependent on the colonial system as casual or forced labourers. Kenyans had no choice but to migrate from their rural homes to work in the sparse colonial plantations in the Kenyan highlands, to afford paying a mandatory cash tax imposed on them (Elkins 2005). Suppressed, abused, forced into detention camps, Kenyans were desperate to dispose the colonial regime. Political aggressors believed that those who could speak the colonial language or understand their ways, albeit even rudimentarily, were in a better position to present grievances to the colonial administration in Britain. For example, Jomo Kenyatta who became Kenya's first President, then a colonial political agitator was dispatched to Britain to represent Kikuyu interests. He later would return at the helm of anti-colonial aggression, arrested and detained.

The colonial African is represented as a suppressed "other", the "subaltern", the "oriental", if I may add, "lacking in consequence". Just as in mimicry (Bhaba 1983), the colonized was not

exposed to wholesome education, only what indoctrinated his colonized self, dehumanized his cultural beliefs and elevated European ways as the norm. The pre-colonial African migrant in Europe, like Kenyatta had a glimpse of how the West views him, in other words as; “inconsequential, uneducated, illiterate who requires Western education to be understood”. Hence, the effects of the historical domination were intricate mechanisms in societal structures of former colonies. Of relevance, postcolonialism follows the agency of decolonization which commenced in the late 1950s with the dismantling of structures of colonial control and culminated in 1960s. During the period, most colonized states including Kenya achieved their independence from colonial regimes. Although independence was aimed to give Africans a platform to decide their own affairs, it was not dished out honourably. It came after years of negotiations and sometimes bloody violent revolts. Kenya, for instance, experienced an eight-year-long Mau Mau revolt. To Kenyans, Mau Mau were freedom fighters, while to the colonial establishment, they were inhuman savage terrorists. Kenyans especially the Kikuyu inhabitants of the central region which served as the colonial capital lived and survived colonialism.

They remained with a negative narrative of the struggle over domination. Similar experiences by former imperial subjects’ support Bhabha’s (1994) argument that postcolonial theory was a result of the colonial experience, “the testimonies of the third world countries and the discourses of the minority within the geographical and political divisions of East and West, North and South”. Bhabha (1994) has further argued that postcolonial theory offers an intervention in discourses that endeavour to grant a hegemonic normality to the uneven development, and the differential impeded histories of countries, race, and people groups (Bhabha 1994, 171). This is exemplified in the works of Kenyan Diaspora authors like Ngugi wa Thiong’o (who writes in the Gikuyu language – a phonetic variation referred here as Kikuyu), and political poet Abdala Latiff (who writes in Kiswahili).

The authors have gone as far as concentrating most of their writings in local languages - a rejection of English as a colonial linguistic medium. Their literature targets individuals that remained outside of the white, male, European social, political and philosophical convention. Reflectively, Ashcroft et al (1989 11-13) point out that postcolonial theory emerged out of the failure of a European theory “to adequately deal with challenges and different cultural origins of postcolonial writing”. It is such discomforts that Griffith and Tiffins (2004) see an alternative to Eurocentric perceptions, they argue that postcolonialism is an endeavour by the once in the past colonized to re-evaluate, rediscover and remake their own cultures.

It is additionally an act of re-examining the history of the world, against the insufficiency of the terms and conceptual outlines designed by the west. In retaliation for these disparities, postcolonial authors Edward Said, Homi Bhabha, Gayatri Chakravorty Spivak, have introduced a different narrative to illuminate misrepresentation in the literature of elitist capitalist institutions in Britain and America. In their postcolonial discourse, they evaluate ways in which colonial agencies continue to misappropriate the value of the people in former colonies. As literature indicates, contributions of Edward Said’s *Orientalism* (1978) makes the central thesis of scholarship on postcolonial theory. In Said’s work, *Orientalism* is used as a euphemism for the term colonialism, a synonym of Western imperialism and racism.

Said (1977) argues that the Orient is fundamentally a portion of European civilization and culture. *Orientalism* exposes culture and ideology as a mode of discourse with supporting institutions, lexicon, scholarship, symbolism, conventions, even colonial bureaucracies, and styles. For Said, *orientalism* generates a style of thought that makes a distinction between the “orient” and the “accident”. It is on this basis that Said reveals inequalities in the representation of the Orient in European literal material and culture. On the other hand, Gayatri Spivak’s (1986) quest to find out “if the subaltern can speak”, shows her concern with the least powerful people in the society, and challenges they face in expressing themselves or entering dialogue with those in power. She argues, because of the position of the subaltern in the hierarchy, they cannot speak for themselves and therefore implores intellectuals to speak on their behalf (Spivak 1986). In Spivak’s argument, it is clear to see that even if the Subaltern gets a voice through the said intellectuals; it can quickly

become a misrepresentation of their values and struggles to owe to different interpretations based on personal beliefs and prejudices. Spivak concludes, the subaltern can only develop a political consciousness, “if they speak for themselves”, but before that is attained, representation is the best option. Another post-colonialist Homi Bhabha (1983) concentrates on the concept of mimicry as a postcolonial phenomenon. Bhabha (1983; 1994) suggests that mimicry is the supplication and optimistic cultural mixing. He draws examples from the doubling that takes place when one culture dominates the other. The dominant culture is seen to encourage mimicry, to the extent that the minority culture assimilates the dominant culture in terms of language, and identity. Mimicry creates a ‘reformed acceptable other’. Using binarism, Bhabha (1994) theorizes that the dominant culture only learns parts of the minority culture that supports and maintains an ambivalence relationship.

Conclusion

Drawing from these ideas, I conclude, narratives found in postcolonial perspectives of Edward Said (1977; 1979), Gayatri Chakravorty Spivak (1986) and Homi Bhabha (1983; 1994) unearth misconceptions in conventional development theory, as a Eurocentric description of the non-European world. In postcolonial authorship, stereotypes like those instituted in development constructs are exposed to reveal misrepresentations, and loopholes in discourses that demean or undermine social and economic contexts of subjects from developing countries. Albeit, knowledge alone did not give anti-colonial aggressors powers to free themselves from the colonial shackles; revolts and violent aggression was an alternate, replicated across many African nations. Ngugi (1986) suggests that the colonial interphase in Kenya presented two conflicting interpretation of historical and economic development.

Firstly, an imperialistic, neo-colonial thought that the more quickly Kenya misplaced her identity to the West and left her destiny in the imperialistic interests, the quicker was her advancement and development to modernity. Geographical annexing of land placed Kikuyu’s a dominant ethnic group close to the central region and colonial capital, while the rest of the tribes were disbursed in the peripheries. In postcolonial Kenya, political and economic disparities herald power struggles between dominant ethnicities, Kikuyu, Luo and Kalenjin ethnicities. Secondly, heroic struggles of Kenyan and other African people to break free from imperialistic capitalism were precursors to development. For Kenyan nationalists, it was the traditional resistance movements. Particularly, the Kenya Land and Freedom Army (Mau Mau), through the struggles of ordinary Kenyans ousted the colonial imperialists and paved way for self-independence and economic development. Ngugi a Diasporic exile argues that for Kenyans to realize their cultural and economic perspectives, they must relate their experiences to prevailing national economic heritages.

As well as struggles of other people in Africa, the third world, Europe, and the Americas. Ngugi concludes, Kenyans like other Africans must be engaged in global democratic and socialist forces that would eventually lead to a demise of imperialistic capitalism (Ngugi 1996, 102). However, Ndege (1992) illustrates that Kenyan colonization by Britain in 1895, exposed it to a capitalist economy based on merchant capital, promoting trade between Kenya and the outside world. The practice, though positioned as mutually beneficial to colonies producing raw material, and industrialized nations manufacturing finished products, disproportionately benefited developed countries (Ndege 224 in Ochieng & Maxon 1992). Ochieng (1992) puts it more explicitly, that colonial rule elevated Westernization and the capitalist infiltration of African economies. Postcolonial Kenyan political leaders sustained repressive tendencies experienced during the colonial regime. They were dignified as overall decision makers and determined policies for the independent nation. To this end, cultural indoctrination of development consciousness remains inherent in the historical makeup of residents as well Kenyans in the Diaspora. Although Kenya’s development has surpassed the colonial assumptions of the 60s, to the economic restructuring of the 80s and 90s, some colonial perceptions are deeply enmeshed in its development agenda. Hence, postcolonialism is an endeavour by the once colonized to re-evaluate, rediscover and remake their own cultures (Griffith and Tiffins 2004). Through a postcolonial glance, we notice a deficit in public knowledge of Kenyan historical contexts and limited attention on postcolonialism in

scholarly work of African social researchers. This has contributed to deep seated social-economic disparities. In this paper, I attempted to show that postcolonial approach is relevant in the interpretation of current socio-political and economic challenges that Kenyans grapple with. However, with exposure through the documentary and Elkins (2005) ethnological research, we see a path to reconciliation and justice.

In 2013, more than 5000 victims accused the British Government of a series of human rights violations, including rape, illegal detentions and castration. Britain announced a £19.9 million (\$30 million) settlement for human rights violations in Kenya during its colonial rule (BBC 2013). More so, Kenyans in the Diaspora contributions through remittances both social and economic is aimed to change development narratives and situations in the homeland. As social actors, Kenyan Diasporas are aware of the “development crisis” (Escobar 1995), where conventional aid centered development constructed from Western ideological perceptions is limited to addressing sustainable economic pursuits for citizens. Colonial inherent factors such as unemployment, political conflicts, scarce resources, and weak institutions have hindered the much-prized development and caused migration of Kenyans to Europe. To change these socio-economic and political statuses, Kenyans, like other African Diasporas are turning a migration narrative to alternative development thought.

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