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Editors: Nicoleta-Elena Heghes
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TABLE OF CONTENTS

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
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Monetary Systems

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ABSTRACT: Throughout modern international finance, different monetary regimes existed. International monetary arrangements initially arose from the need to provide international trade with easy means of settling trans-border payments (Semmler 2019). For centuries, both domestic and international trade was carried out using gold and silver (Semmler 2019). The Gold standard during the Interwar Period since 1870, the Bretton Woods system and the following Euro currency introduction. This essay summarizing the differences between the three Monetary and currency systems: Gold standard, Bretton Woods and Euro-System and highlights the success and failures of the different approaches to guide monetary matters throughout history.

KEYWORDS: Bretton Woods System, Central Banks, Currency System, Economic Stability, Euro Currency, Finance, Fiscal Policy, Gold standard, History, International Trade, Monetary Policy

Introduction

Money has different forms and faces. (The functions of money are being a medium of exchange, balance of account, measure and store of value, international money and most recently crypto currency side market). From precious gold, silver and copper coins to paper claims on gold and finally fiat money guaranteed by a sovereign in the 19th century emerged first the Gold standard period since 1870, which featured a stable peg and exchange rate of international currencies to gold, later on the dollar and pound were starting to take over that role, while stably being pegged to gold. The banking crisis of the Great Depression during the prolonged crisis in the interwar period and the success of the Gold standard being seen as highly controversial and unsuccessful attempts to restore the gold standard led to the Bretton Woods system (Fisher 1933 in Bordo 1999; Galbraith 2014; Kindleberger & Alibar 2006; Minsky 1995). The Bretton Woods system featured a fixed exchange rate system of the USD (=United States Dollar) and gold as well as the GBP (=Great Britain Pound) to gold. Both currencies were meant to be fully convertible to gold at all time, which created problems of feasibility and current account deficits for the monetary authority countries United States and Great Britain. The European Monetary Union (EMU) was created in 1978 when all back-then European Union-predecessor members joined and Britain followed in 1990. The EMU started out with the creation of the so-called snake within a tunnel, a construct to have currency fluctuations ranging only between a margin of +/- 2.25 percent and the central bank intervening when currency fluctuations move beyond the set limited bandwidth. From the European Currency Union featuring the European Currency Unit (ECU) a fictitious banking currency, the European Union incepted the Euro as single fiat payment method in most economically developed European Union (EU) member states.

The current system in place is a mixture of systems, ranging from groups of economies that peg their exchange rates to each other, to countries whose exchange rates are determined primarily by economic forces, with a wide range of managed floaters' in between (Semmler 2019). The paper summarizes the differences between the three major monetary and currency systems: Gold standard, Bretton Woods and Euro-System highlighting the differences and success and failures of these historically grown, most important monetary regimes.

* The author thanks Professor Willi Semmler for most excellent lectures on 'International Finance' during Fall 2019. The author declares no conflict of interest. All omissions, errors and misunderstandings in this piece are solely the author's.

2. Monetary regimes

2.1 Gold standard and Interwar Period

In Great Britain emerged from the Peel's Act in 1819, the gold standard was significant for gold and silver coexisting but bank notes circulated alongside. Gold as a medium of exchange was too costly (less than 100% coverage) and too precious.

The Gold standard evolved out of the variety of commodity-money standards that emerged before the development of paper money and fractional reserve banking. The predecessor was the Latin Monetary Union, in which Belgium, France, Italy, Switzerland and Greece harmonized their silver coinage on a common basis (Eichengreen 1996). Starting in 1870, from 1879 to 1914 the bimetallism was abandoned (Eichengreen 1996). Central banks were created following the goal to defend the exchange rate with gold as the underlying currency. First the fixed exchange rate was active in terms of the dollar to ounce and British pound to ounce, later this shifted into an exchange rate between dollars and British pounds. No discretionary monetary policy was possible (Semmler, in speech). The Gold standard is often seen as an automatic mechanism that takes the money supply (monetary policy) out of the hands of policy makers. The Gold standard gives rules priority to discretion (Kydland & Prescott 1977; Barro & Gordon 1983). By the beginning of the twentieth century, there had finally emerged a truly international system based on gold (Eichengreen 1996). The association of the gold standard with deflation dissolved and the dollar's position was solidified by passage of the Gold Standard Act of 1900 (Eichengreen 1996). The political period of peace in Europe from 1871 to 1913 facilitated the international cooperation that was needed to support the system.

The second phase of the Gold standard was the Interwar Period, which featured *free floating* from 1919 to 1926 in the interwar period. Thereby most countries went off the Gold standard except the US. Great Britain returned in 1919, whereby the British pound was first under-valued and then over-valued. Countries like Germany that had been international creditors were reduced to debtor status and became dependent on capital imports from the US for the maintenance of external balance. Germany joined the gold standard after hyperinflation in 1924, then France too. And among the first countries to reestablish gold convertibility were those that had endured hyperinflation, such as Austria, Germany, Hungary and Poland. New currencies were issues whose supplies were governed by the provisions of gold-standard laws. Reserves were replenished by loans endorsed by the League of Nations. Yet the growth of political and military tensions between Germany, France and Britain after the war eroded the solidarity upon which financial cooperation has to be based (Eichengreen 1996). Characterized by various periods of monetary instability and economic chaos (such as the 1921-1923 hyperinflation of the Weimar Republic and the 1929-1933 Great Depression); the interwar period saw fluctuating exchange rates as countries widely used "predatory" depreciations of their currencies as a means of gaining advantage in the world export market. Attempts were made to restore the gold standard, but participants faced various domestic problems and lacked the political will to "follow the rules of the game." The result for international trade and investment was profoundly detrimental. The interwar gold standard resurrected in the second half of the 1920s with labor and commodity markets lacking traditional flexibility.The new system could therefore not accommodate shocks. In the interwar period precious metal became an essential resource for purchasing abroad the supplies needed to fuel war preparations. With gold market arbitrage disrupted, exchange rates began to float. Of all major currencies, only the dollar remained freely convertible into gold. Central banks did not intervene in foreign-exchange markets and therefore the first half of the 1920s provides a relatively clean example of a floating exchange rate regime (Eichengreen 1996).

The *weak gold standard* period between 1927 to 1931 weakened gold as reserve currency for the dollar and pound. Britain – with low stock of gold – suspended 1931 convertibility with the Sterling floating.

The third period of *managed float* from 1931 to 1939 during the Great Depression featured competitive devaluation of currencies, decline of world trade, a US embargo on gold export in 1933 and finally the collapse of the gold standard. By 1932, the international monetary system featured three blocs: The residual gold standard countries led by the US, the sterling area led by Britain with countries pegged to the pound sterling and Central and Eastern European countries led by Germany, where exchange control prevailed.

Advantages of the gold standard are the function as an automatic stabilizer of the balance of payment. The Hume mechanism is a self-correcting mechanism through outflow and inflow of gold, which allows inflation rate and export competitiveness adjustments. Perhaps the most remarkable feature of the model remains its durability – developed in the eighteenth century, it remains the dominant approach to thinking about the gold standard today (Eichengreen 1996). Another cornerstone of the prewar gold standard was the priority attached by governments to maintaining convertibility. In the countries at the center of the system – Britain, France and Germany – there was commitment that officials would ultimately do what was necessary to defend the central bank's gold reserve and maintain the convertibility of the currency (Eichengreen 1996). Central banks therefore followed the market, adjusting bank rates to track market interest rates.

The gold standard lasted less than forty years from 1879 to 1914 as the success of the Gold standard remains highly controversial. The one-target-focus of the central bank to manage exchange rates through gold is seen critical amidst inflation and unemployment fluctuations during the time the Gold standard was practiced. Therefore, today central banks pursue multiple targets. With the liberalization of capital markets and cross-border financial investment and trade, gold flows are only a fraction of trade flows and balance of payments positions. The net capital movements are larger than trade balances. Reaction of capital flows to financial market returns underline the role of the interest rates and discount rates for the stability of economies. Adjustment mechanisms create huge fluctuation in unemployment and deflationary periods. There is a conflict of gold being a reserve and serving other functions.† The change of financial centers and rise of other reserves held in the shift from gold to US dollar and British pound took away the power of gold. 19th century globalization has leveraged capital flows more welfare enhancing than trade flows, yet since the 1970s capital flows are less welfare enhancing.

During the Great Depression, asset and equity prices fell after 1929, leading to a home and agriculture price fall. With the price fall occurred a fall of farmers' revenues. Due to fixed nominal debt payment and real interest rate rising (Fisher effect) banks had large loan losses. Central banks then changed reserve holdings towards gold in a run into gold, leading to a giving up of the gold standard and reserves being run down. The expected depreciation of the currency triggered then capital flights and put pressure on the banks' liability side during banks runs, which caused insolvency of US banks. Banks closed in Austria and Germany during similar financial crises to avoid banks as magnifiers of the crisis in the economy (Semmler 2019).

Comparing to post-war periods, the gold standard period is marked by lower and variable growth, little inflation, and lower monetary supply growth. Benefits of the gold standard include that money supply is strictly determined by the stock of gold, which increases credibility of monetary policy and maintains long run price stability (hyperinflation is almost impossible). The price-specie-flow mechanism automatically regulates the balance of payment for each country. It does not require a particular country to be at the center, avoiding conflicts about which country it should be. Major drawback in the gold standard was that this regime required a rigid monetary rule and a fixed exchange rate regime. By the Hume mechanism, a trade deficit caused a shrinking money supply, while a surplus meant an expanding money supply. Both processes act to equilibrate trade imbalances (Semmler 2019). Countries on gold standard circumvented the tight theoretical link between gold tenders and sales at the central bank, trade balances and

† BoP=BoT+Change of Reserves, whereby BoP=Balance of Payments, BoT=Balance of Trade

changes in the monetary supply. In reality only four countries (England, Germany, France and the United States) maintained a pure gold standard in the sense that money circulating internally took the form of gold coin. And even in those four countries, adherence to the gold standard was tempered. Devices were needed for encouraging gold inflows and discouraging outflows such as central banks extending interest-free loans to gold importers to encourage inflows. Gold physically had to be moved from one central bank to another. Those with multiple branches, like the Bank of France and the German Reichsbank, could obtain gold by purchasing it at branches near the border or at a port, reducing transition time and transportation costs. They could discourage gold exports by redeeming their notes only at central office. They could raise the buying and selling price for gold bars or redeem notes only for worn and clipped gold coins. Profitability of central banks became an issue, as if the central bank set the discount rate above market interest rates, it might find itself without business. Another consideration was that raising interest rates to stem gold outflows might depress the economy. Interest rate hikes increase the cost of financing investments and discourage the accumulation of inventories. Finally, central banks hesitated to raise interest rates because this would increase the cost to the government of servicing its debt (Eichengreen 1996). Gold standard implies favoring rules over discretion. Domestic money supply is largely a function of external balance and there is little room for monetary policy. This makes the economy vulnerable to macroeconomic shocks; problems like unemployment and economic distress tends to persist. The total supply of gold depends on discovery of gold mines (which is usually random). The growth of international trade tends to be hampered by the limited growth of liquidity. Since the total world reserve of gold is limited, the total money supply is also limited, an economy under gold standard will be constantly subjects to deflation problems. Another limitation of the gold standard was the inability to anticipate and moderate predictable cycles. For this, central bank rates had to lead market rates rather than follow them. The harmonization of policies throughout a compound of countries yet was difficult in turbulent times and there was often a conflict between domestic and international financial stability. In terms of economy policy, Gold standard was prioritized over domestic economic concerns (such as unemployment and inflation) because of the ignorance of necessity of governmental intervention.

2.2 The Bretton Woods System

The evolution of a new monetary system after the First World War can be seen as a series of ad hoc responses to international crises and system inadequacies (Semmler 2019). The Bretton Woods system was designed to void the competitive devaluations of the interwar period by establishing a system of fixed exchange rates based on the US dollar's link to gold (Semmler 2019). Partially emerged out of the European Payments Union that was formed to deal with Europe's trade and payments problems; the Bretton Woods System monetary regime started in July 1944 and was the predominant monetary world order until 1971/3. The IMF and central banks were thereby enacting global monetary and financial stability.

Based on the Keynes and White Plans, the Bretton Woods system was created in July 1944 in order to combat problems of competitive devaluations, volatility of floating exchange rates and dual financial power centers of the US and UK. While the US argued for a fixed exchange rates regime and the UK for an adjustable, the compromise was enacted by following an adjustable peg. Countries were required to declare par values for their currencies in terms of gold or a currency convertible into gold, which in practice meant the dollar, and to hold their exchange rates within 1 percent of those levels (Eichengreen 1996). Par values could be changed to correct a fundamental disequilibrium by 10 percent following consultations with the Fund but without its prior approval, by larger margins within the approval of three-quarters of Fund voting power (Eichengreen 1996). The Bretton Woods system substantially improved the degree of exchange rate stability and dispatched payments problems, permitting the unprecedented expansion of international trade and investment in the postwar boom period (Eichengreen 1996). A new institutional arrangement featured

(1) the creation of the International Monetary Fund (IMF),

(2) a fixed exchange rate (with only 1% fluctuations around par value allowed and actual currency convertibility since 1958). These pegged exchange rates became adjustable, subject to specific conditions known as fundamental disequilibrium,

(3) gold dollar parity (USD 35 per ounce of gold),

(4) and the IMF was created by funds provided by its member states, of which was 25% in gold, which were used as resources for lending to member states to keep parity and special drawing rights (SDR) since 1967 based on the credit positions of its member states (Eichengreen 1996). The IMF was meant to monitor national economic policies and extend balance-of-payments financing to countries at risk. Overall, capital controls were permitted to limit international capital flows (Krugman & Obstfeld 1977).

Problematic appears in the exchange rate stabilization the Triffin Paradox with the US dollar being pegged to gold requiring the US to hold gold reserves. As the US provides the world dollars, this leads to a constant trade deficit of the US with the world. The constant claims of the world of dollars required to higher the gold reserves in Fort Knox. The US current account deficit with world trade rising also created a constant and rising need for USD of the world, but the US had no additional sources to acquire gold. An economic crash after the Vietnam War and De Gaulle turning USD into gold led to the abandoning of the Bretton Woods system for IMF control. Thereby the US could not guarantee dollar to gold convertibility anymore. So convertibility problems from the end of the 1960s on led to the final collapse of the Bretton Woods system in 1971. While the pegging to the dollar was strong as a principal reserve currency, it was weak in the growing negative dollar balance that raised doubts in its actual convertibility and costs of supporting the dollar became high (Eichengreen 1996). In addition, the restoration of current-account convertibility limited the possibility of tightening import licensing requirements (Eichengreen 1996). Countries became reluctant to devalue in response to external imbalances as they had to obtain fund approval before changing and fear that this signal leaking to the market would change outcomes for countries to a negative (Eichengreen 1996). The willingness to devalue gave rise to expectations that the authorities would value again and exposed currencies to attacks by speculators (Eichengreen 1996). Problems of imbalances include maintaining a fixed-exchange-rate systems between convertible currencies require credit to finance imbalances. Weak-currency countries tend to need more generous credits (from IMF) to offset speculative outflows, while strong currency countries are not happy with it (because strong currency countries are major contributors of the IMF funds).

As long as foreigners were willing to hold dollars, the US could finance the large balance of payments deficits by increasing holdings of official assets. Yet as the gold reserve of the US declined over the entire period, the gold backing diminished leading to convertibility and credibility problems. As a consequence to all the outlined deficiencies, since 1972 the price of gold compared to the USD and GBP went up and fluctuated freely. The end of the dollar-gold convertibility is associated with less volatility of inflation rates and output compared to before. Parity changes, especially by the industrial countries at the center of the system, were extraordinarily rare. Fixed exchange rates having no transaction cost fluctuations may also invite too much risk taking without being penalized or facing risk in markets (Summers in Semmler 2019).

Since then, the IMF took over a leading role in monetary stabilization with special drawing rights and as watch-dog in terms of the conditionality of loans (Burda & Wyblosz 1997). IMF provides surveillance and monitoring of national institutions. Especially the IMF research department focuses on developmental and global issues as well, such as inclusive growth, stabilizing unemployment, wealth distribution, sustainable development, gender equality, poverty alleviation and climate stabilization. Problems faced by the IMF research department include the merit-based appointment of its staff members who need to convince politically-appointed executives within the institution. Overall, the collapse of the Bretton Woods system was due to the internal inconsistency of a system that required increasing amounts of international reserves to be provided by the US, which were needed to be convertible into gold by definition (Semmler

2019). The large US balance of payment deficits that emerged in the late 1960s out of that necessity created a dollar overhang of official external liabilities which by far exceeded the American real gold assets (Semmler 2019).

2.3 European Monetary Union

The end of the Bretton Woods system around 1971-3 led to the creation of the European Monetary System (EMS) first called Snake, which lasted until September 1991 and later became the European Monetary Union from 2000 on, which featured the Euro as a single currency for most of the European Union member states.

From the Maastricht Treaty in 1992 to the Stability Pact in 1996 in Dublin and the Amsterdam Treaties in 1997 the European single market project developed with a European Exchange Rate Mechanism, leading to a 1999 to 2002 transition stage, in which there was the introduction of a single currency within most of the EU countries since 1.1.2002 (Burda & Wyblosz 1997). The Euro featured advantages of saving on transaction and hedging costs of highly integrated economies, avoid volatility of exchange rates and lower the dominance of the Deutsche Bundesbank, the German central bank, within the European compound.

First the snake would imply that if a currency would move close to a set ceiling of marginal fluctuation bandwidth of +/- 2.25 percent, then the central bank would intervene in speculations. This kind of fixed or pegged exchange rate regime was aimed at stabilization between banks and monetary realignments system of currency fluctuations. In the emergence of the Snake bank currency fluctuations bandwidth was broadened, which either led to flexible exchange rate systems or a single currency monetary union (EMU) featuring a European Currency Unit (ECU) and borrowing facilities among members of central banks' consortia that realigned decisions strategically. The monetary policies remained thereby independent.

Between 1999 and 2002, the EMU arranged monetary policies to once central bank, the European Central Bank (ECB), within 12 member banks with a two pillar concept of monetary decisions – to set the interest rate and determine the optimal quantity of money via the exchange rate, now the Taylor rule of the interest rate. The fiscal policy was laid out in the Maastricht treaty in 1992 with a deficit of lower than or equal to 3 percent of GDP and a penalty mechanism for violations – although Germany violates this often themselves – and a debt ratio of lower than or equal 60 percent of GDP. Due to feasibility constraints, the debt limit has been relaxed. Weak fiscal arrangements and no bail out clauses or fiscal union cause for later sovereign debt crises in the EU, foremost Greece in 2009 and 2010.

Lastly, the EMU introduced the Euro as single currency in a common European Union financial union in which the member states have given up monetary policy fixed exchanges rates for the lead by the European central bank. The central banks thereby use a sterilization policy through open market operations, such as in the case of money transfers between countries.

The European Monetary System in practice features exchange rate stability and convergence of the interest rate. A special feature is the closeness to the Deutsche Bundesbank and countries joined borrowing the Bundesbank credibility (Burda & Wyblosz 1997).

The Euro as a single currency within Europe was successful until the 2008 world financial recession, when the US financial market meltdown led to the Euro crisis or sovereign debt crisis pressuring Grexit – or exit of Greece – talks. Advantageous appears that countries are allowed for a higher band of fluctuations; but the downside is that there can be huge or lasting currency crisis such as in Greece.

To this day, problems remain – foremost EU crises such as the 2007/08 financial market and banking crisis, the 2011/12 sovereign debt crisis and the 2015 policy crisis with Greece debt repayment requirements. Today Italy as highly indebted country using the Euro and Spain and Portugal being in debt as well. Financial stress tests indicate that there is a doom loupe of governmental spread between interest rates – foremost between Italy and Germany, but also Germany to Spain, Belgium, France and Greece. Amplification mechanisms of EU banking and sovereign debt crises are externalities, contagion, fire sale of assets and vicious cycles that are

triggered by bad shocks that lead to a decline in net worth, capital demand and prices to drop (Brunnermeier & Oehmke 2013; Brunnermeier & Sannikov 2010). If net worth declines, the refinancing and prices of assets in markets decline, which makes loan financialization harder. When sovereign debt risks rise, within banks the loans to firms decline as bank debt rises and equity risks increases. This leads to an overall growth decline or contraction in the real economy, leading to a tax decline, which again raises the sovereign debt risk. In this doom loupe the bailout probability rises causing additional stress to sovereign debt accumulation. The economy and crises can thereby become to a self-fulfilling prophecy, in which there are overall two equilibria, one stable and one unstable (De Grauwe 2012; Draghi 2012; Mittnik & Semmler 2014; Schleer & Semmler 2014). The stable equilibrium economy features low interest rates, sustainable debt levels and no crisis; in the unstable equilibrium, the probability of default rises, because of high debt, interest rate rising, which raises the debt and default risk and adverse macro feedbacks set in. Low moving debt crises follow that are still not resolved today (Arellano 2008, 2014; Mittnik & Semmler 2013; Roch & Uhlig 2014; Schleer & Semmler 2014; Semmler & Proaño 2015). The so-called "bad equilibrium" is an equilibrium where you have self-fulfilling expectations that generate, that feed upon themselves, and generate adverse scenarios (Draghi 2012). While these negative developments in markets were not mentioned or thought of in the original treaties to form the EMU or Euro; foremost central banks are now needed to intervene to break these expectations. The default risk equilibrium thereby is a slow moving debt crisis. In a so-called corridor stability (Keynes), small shocks do not have any impact, the shock gets absorbed. Yet, if there is a big shock, these have impacts on inventory, buffers and price stability. The role of central banks and the IMF is to monitor and make stability predictions of different countries. After the crisis there appears a divergence of different fiscal policy approaches in the EU, which appears problematic. Future endeavors may construct a fiscal union or more aligned fiscal cooperation to combat debt crises but also two equilibria problems of a stable and an unstable equilibrium in modern economies.

Problematic appears the question if the Euro-area is an optimum currency area (Mundell 1961 in Semmler 2019). Contemporary concerns are spillovers from private to sovereign debt in the EU. Mortgage debt are rising in the EU in Italy, Spain, Ireland and Greece (Stein, 2011, 2012 in Semmler 2019). If leading to a debt explosion in the banking system leading to loan losses, the banks become more constraint. Sovereign debt can thereby trigger a banking crisis that leads to bail of banks and increases sovereign debt crisis in a self-fulfilling prophecy or doom loupe.

3. Discussion

The current system in place is a mixture of systems, ranging from groups of economies that peg their exchange rates to each other (e.g., Argentinean Peso pegged to the USD), to countries whose exchange rates are determined primarily by economic forces, with a wide range of manged floaters' in between (Semmler 2019). The advantage of fixed and floating exchange regimes are still debated to this day. Flexible exchange rates were declared acceptable to the IMF members and gold was abandoned as an international reserve asset (Yang 2019). Floating (Flexible) ex rates – the ex-rates are determined by the market forces of demand and supply and no intervention is needed in general (Yang 2019). Some countries maintain quasi-fixed exchange rate regime in usually around a band of the fixed rate against an anchoring currency such as US dollar or British Pound Sterling (Yang 2019). Floating exchange rates may subject countries to large and costly short-run swings in nominal and thus real exchange rates. Fixing the exchange rate not only requires knowledge of the appropriate real exchange rate, but also presupposes the ability to discern changes in underlying fundamentals – real shocks to competitiveness and wealth, among other things – that would require changes in the real exchange rate (Semmler 2019). As economic policies of countries have external effects on their neighbours, summitry is a rational economic response to this problem and demonstrates the potential value of economic cooperation (Semmler 2019).

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International Law and Fundamental Human Rights - Ensuring Accountability for the Downing of Flight MH 17

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ABSTRACT: The Parliamentary Assembly of the Council of Europe (PACE) started in January 2020 its work on the draft report entitled: "Ensuring accountability for the downing of flight MH 17" (rapporteur Titus Corlatean, SOC, Romania). The future report will have as main task to inquire about the extent to which countries have carried out investigations required under the European Convention on Human Rights and co-operated with one another as instructed by the United Nations Security Council and to make appropriate recommendations. Essentially, the facts under investigation are related to the shot down of the Malaysia Airlines flight MH 17 over Eastern Ukraine on 17 July 2014, during a decisive phase of the conflict between separatists, backed by Russia, and the Ukrainian military. A first Introductory memorandum was presented by the rapporteur in January 2020 to the PACE Legal Affairs and Human Rights Committee, underlining the key elements of his mandate for ensuring the accountability for the shot down of flight MH 17 and the terrible loss of the life of 283 passengers and 15 crew members. The committee accepted to declassify the memorandum. The main initial conclusions and the guidelines for the future work to finalize the report are presented as follows.

KEYWORDS: flight MH 17, shot down, accountability, European Convention on Human Rights, Ukraine, Russia, Netherlands, separatists, Security Council

Introduction

On 17 July 2014, Malaysia Airlines flight MH 17 was shot down over eastern Ukraine, during a decisive phase of the conflict between separatists, backed by Russia, and the Ukrainian military. Flight MH17 was on its way from Amsterdam to Kuala Lumpur. All 298 people on board died, including 196 Dutch nationals. It became quickly apparent that this was not an ordinary accident. After one week, the UN Security Council unanimously demanded that those responsible shall be held to account and called on all States to cooperate in the investigation. As after every air disaster, two parallel strands of investigation must be distinguished: the air safety investigation under the Chicago Convention, which shall determine the causes of the disaster and draw lessons from any shortcomings in safety arrangements for purposes of improving future air traffic safety. In parallel, the competent law enforcement bodies shall attempt to establish criminal responsibility of individual perpetrators of any negligent or intentional crime. For MH17, the air safety investigation was delegated to the Dutch OVV (Onderzoeksraad Voor Veiligheid - "Investigation Council for Safety"), on proposal of the National Bureau of Air Accidents Investigation of Ukraine, on account of the large number of Dutch victims and the fact that the flight originated in Amsterdam. The Dutch OVV presented its final report on 13 October 2015. It concluded that flight MH 17 was brought down by a BUK missile originating from Russia (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 1).

The parallel criminal investigation by the Joint Investigation (JIT) led by the Dutch Prosecution Service and the Dutch National Police in co-operation with their colleagues from Australia, Belgium, Malaysia and Ukraine is still ongoing. The Dutch prosecution service recently announced that they would prosecute four suspects: Igor Girkin, Sergey Dubinski, Oleg Pulatov and Leonid Kharchenko, one having Ukrainian nationality and three Russian nationals. Both countries' Constitutions do not allow the extradition of their nationals. They must be prosecuted in their home countries, according to the principle of "dedere aut iudicare" (extradite or prosecute) enshrined in international law.

Article 2 of the European Convention on Human Rights

Based on a motion for a resolution (Doc. 14929/ 27 June 2019) of the Parliamentary Assembly of the Council of Europe (PACE) the Bureau of PACE decided to seize the Committee on Legal Affairs and Human Rights for a report on this dramatic event. At its meeting from 1 October 2019 in Strasbourg the Committee appointed a Rapporteur and at its next meeting from 10 December 2019 in Paris the same Committee heard a statement of the rapporteur explaining his understanding of his European mandate for a future action (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 2).

According to the positions expressed by the authors of the motion for the report, shared by the rapporteur, it is of "utmost importance that justice be done and that all member States fully co-operate with the efforts in this respect by those States that have jurisdiction. Suspects of serious crimes should be either extradited on the request of the State undertaking the investigation and prosecution or prosecuted in the home State, if this State does not extradite its own nationals" (Doc. 14929/ 27 June 2019). Under Article 2 of the European Convention on Human Rights (right to life), as amended by Protocols 6 and 13 (European Convention on Human Rights, 6), all States Parties have the duty to carry out effective investigations to identify and punish those responsible for the loss of life that occurred under their jurisdiction (Doc. 14929/ 27 June 2019, 1).

In line with the motion, the main task for the PACE report is to inquire about the extent to which countries have carried out investigations required under the European Convention on Human Rights and co-operated with one another as instructed by the United Nations Security Council (Resolution 2166/21 July 2014) and to make appropriate recommendations. The report stated within the committee that will not attempt to second-guess or anticipate the results of the air safety investigation or the findings of the JIT. The PACE has neither the mandate, nor the expertise, nor the resources to do such a thing. But it is mandated to inquire and assess whether all States Parties to the European Convention on Human Rights have fulfilled their duty, under Article 2, to properly investigate and sanction any loss of human life.

Content of the Introductory memorandum

In the Introductory Memorandum, the rapporteur briefly presented the investigations carried out so far at national and international level, focusing on progress made and obstacles encountered by the investigators. The Dutch OVV, the Joint Investigation Team and the investigative site Bellingcat, which carried out extensive open-source research, published their results successively, step-by-step. They successively provided more detail and further corroboration of the now seemingly well-documented narrative according to which a BUK missile originating from Russia, launched from separatist-held territory in eastern Ukraine, was used to shoot down MH17.

Essentially, after the catastrophe, and the diffusion in the international media of the horrible images of the wreckage of the plane and the human remains scattered over a large area in the conflict zone in eastern Ukraine, it soon "became clear that the cause of the crash was not a malfunction of the plane or pilot error, but the impact of a weapon, or weapons of war. Investigations were hampered by the fact that the crash site was located in a zone under the effective control of separatist militias supported by Russia. There were even reports of looting of the personal belongings of crash victims. Only in the days after the crash, investigators from Ukraine, Malaysia and Australia and journalists, accompanied by OSCE observers, could access the crash site" (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 2).

In accordance with the international regulations in this domain, two types of investigations needed to be carried out urgently and independently from one another. The first, on air safety investigation, having the target to identify the causes of the crash. The second, on criminal investigations trying to establish any criminal responsibilities.

A. The air safety investigation under the Convention on International Civil Aviation (Chicago Convention)

The objective of the technical investigations conducted under the international requirements established by Annex 13 to the Chicago Convention is not to apportion blame, but to draw appropriate lessons from any air disaster for the sake of improving air traffic safety in future (ICAO 2015).

As mentioned previously, the Dutch OVV received the competence for fulfilling the task of the air safety investigation. The OVV presented its final report on 13 October 2015. "It concluded that flight MH 17 was brought down by a BUK missile, more precisely by a 9N314M-type warhead of a 9M38M1-type surface-to-air missile, mounted on Russian-built BUK mobile air defense systems. The warhead was identified beyond doubt by characteristic (bow-tie shaped and square) fragments found in the wreckage and in the remains of crew members. The fuselage had suffered the impact of more than 800 high energy objects originating from one spot outside the plane, their shape excluding air-to-air cannon shot. The OVV report also carefully considers and excludes any other causes for the crash, like, for instance, lightning strike, hit by a meteorite or space debris, explosion on board, expansive engine failure, lack of airworthiness of the plane and the crew" (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 2- 3).

According to the OVV report, as reflected in the Introductory memorandum, "the investigators identified characteristic sound peaks in the last 20 milliseconds of the CVR (Cockpit Voice Recorder) recording and located their source as being outside the plane, above the left side of the cockpit. The OVV report also establishes that no alerts or warnings of technical malfunctions were recorded on the CVR and the FDR (Flight Data Recorder). The OVV notes that the flight recorders could not be recovered by the Annex 13 investigation team. They were removed by two unknown officials and handed over only on 21 July 2014 to a Malaysian official in separatist-controlled Donetsk." On the other hand, "radar data made available to the OVV by the Ukrainian and Russian authorities show that no other planes were in the vicinity of MH17, with the exception of three other commercial airliners, the closest at a distance of about 30 km. The OVV notes that the Russian authorities provided only video recordings of radar screens and not the raw radar data, which Russia claimed were not stored as they did not concern Russian airspace. The OVV recalls that this violates ICAO standards."

The OVV report emphasizes that "it was first given access to the crash area only on 4 November 2014 and could only recover the wreckage in two missions starting on 16 November 2014 and 20 March 2015. It was however given access to information collected by other investigators given access earlier. But the OVV also notes that some pieces of wreckage identified as having been in the wreckage area shortly after the crash were not found during the recovery missions. The conditions of the transfer of the human remains for purposes of identification are not described in the report" (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 3).

Finally, as concerns the air safety investigation, an important part of the OVV report is dedicated to "describing and analyzing the degree of risk of flying over a conflict zone such as that in eastern Ukraine (but also Afghanistan, Syria, Iraq, South Sudan, which commercial airliners overfly routinely in altitudes considered safe, as being out of the effective range of weapons used in these conflicts, such as "MANPADS" (portable surface-to-air missiles)" (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 3).

B. Criminal investigations by the Joint Investigation Team (JIT)

The JIT is made up of police officers and forensic experts from Australia, Belgium, Malaysia, the Netherlands and Ukraine (see the informative official website on the MH17 crash at https://www.om.nl/onderwerpen/MH17-crash/ featuring explanations on various aspects of the JIT's work , in particular, forensic research into debris in Gilze-Rijen, the field office in Kyiv, the collection of soil samples in the areas suspected as the missile's launch site, the investigation into the weapon

system used to bring down MH17 and the use of international legal assistance). It is led by the Dutch national police and has a field office in Kyiv. "The JIT, set up under the auspices of Europol, is currently 50-strong (according to MH17 Magazine 03, 'Incomparable investigation', hundreds of people were initially working on this investigation under the supervision of eight prosecutors; depending on the needs, people have joined over time whereas others left the investigation) and has access to the full array of forensic, aviation and military expertise (including radar, missiles, weapons and explosives experts). The JIT has carried out extensive forensic analysis of the human remains, and aircraft debris transported to the Netherlands, stored and analysed at Gilze-Rijen Air Force Base. The JIT also has access to information collated by the OVV. It may use information from all sources, but its task is to gather evidence in accordance with the high standards of evidence required for use in criminal court proceedings" (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 4).

According to the PACE Introductory memorandum, "on 30 March 2015, the JIT released a video calling for witnesses in eastern Ukraine to come forward with information regarding the transport of a Buk anti-aircraft system through eastern Ukraine on July 17th (the day of the MH17 crash) and 18th, 2014. In the video, the JIT summarize the transport route of the BUK from Donetsk, through Zuhres and Torez to Snizhne, to Luhansk, and back to Russia with photographs and videos of the BUK along with intercepted phone calls between separatists. The majority of this information has been in the public domain since a report by Bellingcat dated 8 November 2014. In addition, this video presents intercepted phone calls made after the downing of MH17 that further implicate Russia and the separatists supported by Russia. In these three previously unpublished phone calls, separatists discuss a Volvo low-loader truck hauling a BUK from Snizhne to Russian territory shortly after the downing of MH17.

On 28 September 2016, the JIT announced that MH 17 was shot down by a missile from the 9M38 series, launched from a BUK TELAR system, which had been transported from Russia to an agricultural field near Pervomaiskyi, in eastern Ukraine, from where the missile was launched. After firing – with one missile missing – the system was transported back to Russia. On 24 May 2018, the JIT announced its conclusion that the BUK TELAR system used to shoot down MH17 belonged to the Russian armed forces' 53rd Anti-Aircraft Missile Brigade stationed in Kursk. The JIT also launched a call for witnesses such as members of the 53rd Brigade in question.

On 19 June 2019, the Dutch authorities announced that based on the investigation conducted by the Joint Investigation Team (JIT) the Public Prosecution Service of the Netherlands would prosecute four suspects for bringing down the airplane, namely Igor V. Girkin (aka Strelkov), Sergey N. Dubinskiy, Oleg Y. Pulatov and Leonid V. Kharchenko. The first three are Russian nationals, Mr. Kharchenko is Ukrainian. Mr. Girkin is a former colonel of the FSB. On 17 July 2014, he was "Minister of Defense" and commander of the army of the self-proclaimed Donetsk People's Republic ("DPR"), from where MH17 was shot down. As the highest military commander, he also maintained contact with the Russian Federation. Mr. Dubinskiy is a former military officer of the GRU (the Russian military intelligence service). He was one of Girkin's deputies in 2014. He headed the intelligence service of the "DPR" and also maintained contact with the Russian Federation. Mr. Pulatov is a former military officer of the Russian "Spetznaz-GRU", the special units of the Russian military intelligence service. At the relevant time, he was one of the deputies of Dubinskiy. Mr. Kharchenko, the only Ukrainian suspect, has no military background. Receiving orders directly from Dubinskyi, he was commander of a combat unit in the Donetsk region.

The four suspects became by that subjects of prosecution for causing the crash of flight MH17, resulting in the death of all persons on board, punishable under Article 168 of the Dutch Criminal Code; and the murder of the 298 persons on board of flight MH17, punishable under Article 289 of the Dutch Criminal Code.

On 14 November 2019, the JIT "released another witness appeal, linked to the publication of several intercepted telephone calls on its website. The JIT announced that recent analysis of

information obtained by the JIT, including witness statements by former "DPR" members, revealed that Russian influence over the "DPR" went beyond military support, as supported by recorded telephone conversations between the leaders of the "DPR" and high-ranking Russian officials. In its latest witness appeal, the JIT reveals details about secure means of communication used between "DPR" fighters and Russian officials. The telephone numbers, used daily, were from the same series and appeared to be provided by the FSB. The JIT called for information on who used these telephone numbers and witnesses who can share information about those who commanded the deployment of the BUK TELAR in question.

International arrest warrants had been issued and the four suspects have been placed on national and international lists of wanted persons. Three of the suspects have Russian nationality, the fourth is Ukrainian. As the constitutions of both countries did not allow extradition of nationals, extradition would not be requested. The trial was scheduled to start on 9 March 2020 before the District Court of the Hague" (see https://www.om.nl/onderwerpen/mh17-vliegramp/; Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 4,5).

On 2 December 2019, "the Dutch Public Prosecution Service (PPS) announced that it had informed the Russian authorities of its request for the provisional arrest of a fifth suspect ("person of interest"), Mr Vladimir Tsemakh. He was arrested in Ukraine for other criminal offenses. The investigation into his role in the downing of flight MH17 is still ongoing. The JIT, who questioned him several times, considers him a suspect. But it could not prevent him from being transferred to the Russian Federation on 7 September 2019 as part of a prisoner exchange. The PPS had immediately requested from Russia to arrest Mr Tsemakh for the purpose of extradition to the Netherlands. The PPS received confirmation of receipt of its request before the plane even landed in Moscow. But he was not arrested, despite repeated indications by the PPS that he might flee to the "DPR". On 23 September 2019 and several more times later, the Russian authorities requested additional information, which the PPS said it provided, even though it had no relevance for the arrest of Mr Tsemakh. The request for his arrest was repeated at the highest political and diplomatic levels, to no avail. On 19 November, the PPS received notification from the Russian authorities that the request for the arrest of Mr Tsemakh could not be executed because his whereabouts were unknown. According to media reports, Mr Tsemakh had already returned to his residence in eastern Ukraine. The PPS concluded that: "Russia willingly allowed Mr Tsemakh to leave the Russian Federation and refused to execute the Dutch request. While under the European Convention on Extradition, it was obliged to do so." (see Press release Netherlands Public Prosecution Service concerning Mr Vladimir Tsemakh, 2 December 2019, available at https://www.om.nl/onderwerpen/mh17-crash/@107214/press-release/; Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 5).

The PACE rapporteur concludes on this chapter that "the issue of the alleged failure of the Russian authorities with the JIT clearly falls within (his) mandate as Rapporteur, and (he) will not fail to verify these serious allegations." (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 5).

Separately, just for the record, valuable other reports of investigation were released by Bellingcat, a collective of researchers specializing in fact – checking and Open Source Intelligence, founded by a British journalist. For instance, Bellingcat's most recent detailed report – "A Birdie is Flying Towards You" – Identifying the separatists linked to the downing of MH 17 (Bellingcat 2019) "establishes the identities of most of the individuals heard or mentioned on the intercepted conversations released by the Ukrainian SBU and the JIT. Bellingcat, again, based itself on open (mostly digital) sources, trawling through social networks, online forums, reading leaked messages, using facial recognition tools and analyzing interviews given by separatist soldiers and published telephone conversations. The researchers thereby established the hierarchy of the "DNR" forces involved in obtaining and making use of the Buk system used in the downing of MH17. According to Bellingcat, the "GRU DNR" led by Sergey Dubinsky (one of the four suspects named by the Dutch OPP) was responsible for procuring the Buk missile

launcher in question, and for guarding the Buk at the launch site around the time when MH17 was shot down. Dubinsky's group also oversaw the transport of the Buk back to Russia in an attempt to hide evidence of its deployment – which was "seemingly approved by the DNR's most senior commander – Igor Strelkov." Strelkov is one of the aliases of Igor Girkin, another of the four suspects named by the OPP. According to Bellingcat, the other two suspects named by the OPP, Oleg Pulatov and Leonid Kharchenko, also played key roles in procuring and guarding the Buk. Valery Stelmakh, a member of another group of separatists first spotted the aircraft (the "birdie") and misidentified it as a target; he first reported this information to his commander, Igor Bezler, shortly before the downing. As of Bellingcat's report, it remains unclear who channeled this message to the BUK crew - which, according to intercepts, had come from Russia" (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, 2020, 6). Bellingcat also concluded in a separate rapport that "if the Russian Ministry of Defence (MoD) deliberately provided misleading satellite imagery (presented at a press conference on 21 July 2014), this would be a clear violation of the Russian Federation's duty to cooperate with the investigation into the causes of and responsibilities for the MH 17 disaster" (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 6).

Position of the Russian authorities

By contrast, in brief, Russia has spread different "versions" of the tragedy, successively and even simultaneously, according to which a Ukrainian fighter jet or a Ukrainian BUK missile brought down the plane. Russia rejects entirely the findings of the Dutch OVV, the accusations made by the Joint Investigation Team and the information and analysis published by Bellingcat outright.

In particular, "the Russian MoD stated that no Russian army missile system had ever crossed the Ukrainian border. At a press conference on 21 July 2014, the MoD presented satellite imagery to show that a Buk battery belonging to the Ukrainian military might have brought down MH 17 (see rebuttal by Bellingcat, above). In June of 2015, Almaz-Antey (the State-owned Russian manufacturer of Buk missile systems) held a press conference in Moscow presenting the results of their own investigation into the destruction of MH17, confirming it was hit by a BUK 9M38M1 surface-to-air missile armed with a 9H314M warhead. Shrapnel holes in the plane were consistent with that kind of missile and warhead, it said. Such missiles had not been produced in Russia since 1999 and the last ones were delivered to foreign customers, it said, adding that the Russian armed forces now mainly use a 9M317M warhead with the BUK system. Almaz-Antey also said that Ukraine's armed forces still had nearly 1,000 such missiles in its arsenal in 2005, when it held talks with Almaz-Antey on prolonging their lifespan. But the Russian military still has 9H314M warheads for BUK missiles, too (see Bellingcat report of 17 July 2017, 60). The Almaz-Antey study also postulates an alternative zone for possible launch sites (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, 2020, 7).

To further bolster the thesis that a Ukrainian BUK brought down MH17, the Russian MoD presented additional radar data "accidentally discovered" in September 2016 during "scheduled maintenance" which purports to show the missile coming from Ukrainian Government – held territory, namely in the area of Zaroshchenske. But this radar data is considered inconclusive by the JIT and other international experts, and given the fact that Zaroshchenske itself and its surrounding areas were held by separatist forces around 17 July 2014, this location would have been an unlikely choice for the Ukrainian military to expose a vulnerable and valuable missile system (Bellingcat 2015). As to the "motive" for Ukrainian forces shooting at an airliner mentioned by Russian sources – namely that Ukraine wanted to shoot down a plane carrying President Putin (who was travelling around this time from Moscow to Warsaw) – experts pointed out that a missile from Zaroshchenske could not possibly reach a plane flying much further north between Moscow and Warsaw (Ibidem).

Another "version" spread by Russian officials was that flight MH17 was shot down by a Ukrainian fighter jet. But that version was widely rejected by international experts. The type of

aircraft allegedly used (a SU-25 ground attack plane) was technically not capable of carrying out such a high-altitude attack, and the purported "witness", Evgeny Agapov, who described how a Ukrainian pilot (Captain Voloshin) shot down MH17 did not withstand scrutiny, as did the radar and satellite imagery and the tweet of a Spanish air traffic controller in Kyiv presented in support of this version (Polygraph.info 2017).

In the Introductory memorandum, the rapporteur stated that "as part of (his) fact-finding, (he) intend(s) to ask the competent Russian authorities for clarification regarding the apparent contradictions between different "versions" and supporting materials presented to the international investigators. Any intentionally misleading statements, let alone manipulated data, would clearly contravene Russia's international obligations to cooperate in the establishment of the truth (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 7).

The Malaysian position

On 17 July 2019, Malaysian Prime Minister Mahathir Mohamad was quoted by TASS as claiming that the Malaysian investigators had been excluded from the investigation, that the case was political and that investigators were blaming Russia from the beginning without examination. He had been awarded the Russian Order of Friendship by Vladimir Putin in 2003.

By contrast, the Malaysian prosecutor Mohamad Hanafiah bin Zakaria, who was part of the of the JIT, said at a press conference in the Netherlands on 19 June 2019 that the findings of the investigation "are based on extensive investigations and also legal research," adding: "We support the findings." (Polygraph.info 2019).

Public international law and the rule of law *versus* individual criminal responsibility

Individual criminal responsibility in International law became well founded during the past decades through both the international doctrine and international norms and case law respectively (Cassese 2008).

The rise of "individual criminal responsibility directly under International law marks the coming together of elements of traditional International law with more modern approaches to Human rights law and humanitarian law, and involves consideration of domestic as well international enforcement mechanisms", mainly courts of law (Shaw, 2010, 397).

The criminal responsibility and accountability for the crimes committed in relation with the downing of the flight MH 17 is engaged first of all by the Resolution 2166(2014) of the Security Council of the United Nations adopted on 21 July 2014, demanding that those responsible be held to account and that all States co-operate to ensure accountability (UN Security Council Resolution 2166 (2014)). Both the doctrine and the case law of the International Court of Justice consecrates the primacy of the decisions of the Security Council and the legally binding obligations for the member States to obey to the requirements of the Council (Tchikaya 2015, 134). In this case, the Security Council:

- underlined the "need for a full, thorough and independent international investigation into the incident in accordance with international civil aviation guidelines"
- called on "all States and actors in the region to cooperate fully in relation to the international investigation of the incident, including with respect to immediate and unrestricted access to the crash site as referred to in paragraph 6"
- demanded that "those responsible for this incident be held to account and that all States cooperate fully with efforts to establish accountability" (UN Security Council 2166 (2014)).

At the European level, as mentioned previously, under Article 2 of the European Convention on Human Rights (right to life), all States Parties have the duty to carry out effective investigations to identify and punish those responsible for the loss of life that occurred under their

jurisdiction. In this case, the facts prove an obvious violation of the right to life (Article 2 of the European Convention).

In the same time, the requirements for a full, thorough and independent international investigation simultaneously with the full co-operation of all the States concerned by the matter are directly related with the European established standards of the Council of Europe concerning the *rule of law*. Briefly, the member States are requested to fulfill the rule of law criteria for their membership, as a general rule. This commitment is even more obvious valid in dramatic circumstances, such as the downing of the flight MH 17. It is important to recall in this context the Rule of Law Checklist consecrated by the European Commission for Democracy Through Law (Venice Commission 2016), adopted at its 106th plenary session, Venice, 11-12 March 2016, (Report on the rule of law (CDL-AD (2011)003 rev). Among the key benchmarks established by the Venice Commission relevant for the obligations of some European Member States in the context of downing the flight MH 17 it is worth to mention:

- *Legality, with its specific items, such as the supremacy of the law, compliance with the law, relationship between International law and Domestic law, exceptions in emergency situations provided for by the law (that in any case doesn't allow derogations to the right to life), duty to implement the law etc.;*
- *Legal certainty;*
- *Prevention of abuse of powers;*
- *Equality before the law and non-discrimination, with inter alia its specific items such as the guarantees for equality in law and equality before the law respectively;*
- *Access to Justice, with its specific items, such as independence and impartiality (sub-items such as independence of the judiciary, independence of individual judges, impartiality of the judiciary, the prosecution service: autonomy and control), fair trial (sub-items such as access to courts, presumption of innocence, additional fair trial standards, effectiveness of judicial decisions);*
- *Some other particular challenges to the rule of law, with specific items such as corruption and conflict of interest, collection of data and surveillance.*

As a consequence, the directly concerned European Member States must fulfill their duties according to all these legally binding obligations, both at the Universal and European levels.

Conclusions

The Dutch OVV, the Joint Investigation Team and Bellingcat published their results successively, step-by-step, always providing more detail and further corroboration of the narrative according to which a *BUK missile originating from Russia, launched from separatist-held territory in eastern Ukraine, was used to shoot down MH17*. By contrast, Russia has been spreading different "versions", even simultaneously, according to which a Ukrainian fighter jet, or a Ukrainian BUK brought down the plane. *It is alleged by international investigators that much of the data presented by Russia in support of these versions lacks any credibility. If that were the case, the Russian authorities failed in their duty to cooperate with international investigators in establishing the truth.*

In the PACE Introductory memorandum, the rapporteur expressed "the need to learn more about the working methods of the international investigations and their specific needs for international cooperation, in particular any requests for information, data etc. that have not been fulfilled, in particular the OVV's and JIT's requests for primary radar and satellite data to be provided by Russia, Ukraine and NATO. For this purpose, (he) would like to carry out fact-finding visits to the Netherlands and to Ukraine. In the Netherlands, (he) intend(s) to meet with representatives of the Dutch OVV and of the Joint Investigation Team, as well as the prosecutors at the International Criminal Court. In Ukraine, (he) would like to speak with the Ukrainian investigators who worked on the case and, in particular, obtain first-hand information from them

on their cooperation with the authorities exercising de facto control over the site of the crash… in particular…to discuss the early stages of the work on identification and autopsy of the crash" (Ensuring accountability for the downing of flight MH 17, Introductory memorandum, PACE 2020, 8).

As regards other countries, in particular Russia, and the United States (who might dispose of yet undisclosed satellite and radar data), the PACE rapporteur obtained the Committee's approval for authorisation to address written questions to them on any relevant issues (AS/Jur (2020) PV 01/3 March 2020, Committee on Legal Affairs and Human Rights, Draft Minutes for the meeting held in Strasbourg (Palais de l'Europe) from, PACE 27 to 30 January 2020).

As a general conclusion, the future PACE report will represent an important European contribution, despite the fact that these investigations probably will face serious challenges, for ensuring accountability for the downing of the flight MH 17, according to the requirements of the UN Security Council's Resolution 2166 (2014) and all the other pertinent international norms, including the European legal standards in this domain.

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Social Media and Youth Empowerment: An Empirical Inquiry

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ABSTRACT: The flight of global unemployment is frightening especially with more jobs being rendered redundant due to the advent of Information Communication Technology notably the internet. Despite this ugly trend, stakeholders are optimistic that the internet if effectively applied would create more job opportunities. Anchored on Uses and Gratification theory of communication, the study is an inquiry into specific areas of social media economic empowerment among users. In the method section, mixed method design which involved descriptive survey and factorial design was employed using descriptive analysis and ANOVA statistical tools. The sample population was 143 social media users in Anambra State whose ages ranged from 23-37 years. The participants were sampled from a pool of social media users using purposive and convenient technique. The result revealed that youths' awareness on the empowerment potential of social media is high, while indicating that majority (65.7%) of the youths are attracted by social media by its leisure appeal and they use it for chatting, connecting friends and leisure compared to 34.3% of youths who use it for learning, empowerment and opportunities. Furthermore, significant differences were observed between males and females on social media user appeal. It is recommended that youths be mentored on the empowerment potentials of social media by the successful leaders in the industry.

KEYWORDS: information and communication technology, internet, leisure, social media, unemployment, youth empowerment

Introduction

Year in and out, the annual global job loses hits new highs especially since the advent of Information and Communication Technology (ICT) notably the internet which berthed social media (Agbawe 2018). Currently, there is a renewed concern regarding the technological advancement that, it displaces much of workforce and consequently create widespread unemployment, human hardship, and social disruption (McClure 2018). Some economists have advanced the argument that government must act to avert the loss of jobs that are likely to be replaced by technology (Van Roy, Vértesy, and Vivarelli 2018). However, other authors have argued that opposition to technology stems from a lack of understanding of the economic usefulness of technology (Peters 2017) and such arguments also believe that technology will help to deepen job creation and youth empowerment. This can only be possible if the contribution of technology to economic development of the new technology is diffused and applied. Diffusion results from the individual's decisions in the exploitation of the new technology; such is what social media offers.

As much as the proliferation of ICT created job redundancy in some aspects, considering the ease and speed of ICT which replaced hitherto some human jobs; it has equally opened larger opportunities for part and fulltime paid employment (McClure 2018). Harrah (2016) contends that more than job creation, the presence of the internet has specially opened an unlimited window of entrepreneurial activity large enough to empower any enterprising youth. This unique dimension of ICT got more prospective with the advent of social media interaction in the digital space. Many youths are finding it more convenient to exist and reach out to the world in the digital world than they do within their physical space. In reality, a number of youths have been able to catch in on this presence for empowerment. Many youths have their blogs through which they market their own products (things they can do in exchange for a pay) and services which the public can subscribe to. Yet, others have equally taken advantage of the paid services of leading social networking sites such as Youtube to market their videos while the networking sites pay

them a certain amount of money based on the number of visitors traffic they bring to their networks, websites or Youtube.

Going by the unlimited opportunities provided by the ICT, perhaps there will be more empowerment among youths who utilize and take advantages of the potency of ICT especially social media to create profitable ventures. Thus, this study intends to examine the impact of social media on youth empowerment with hindsight on whether its users' have taken advantage of its windows of entrepreneurship.

In view of the above, the following objectives will guide the study:

i. To ascertain youths' knowledge regarding the prospects of social media usage in Anambra State
ii. To ascertain youths' appeal towards social media usage as tools for empowerment
iii. To evaluate gender differences in social media leisure and empowerment appeal among youths in Anambra State.

Review of Literature

Information and Communication Technology (ICT)

The evolution of Information and Communication Technology (ICT) especially the internet gave birth to the social media networks such as Facebook, Twitter, LinkedIn, Badoo, Wechat, Instagram, Youtube, WhatsApp, etc. Social media networks are platforms or sites that facilitate the building of social relationships among people of different races and provide opportunities for them to share interests, activities, backgrounds, or real-life connections (Brynjolfsson & McAfee 2011). Social network services also consist of a representation of each user's social connections, and a variety of additional services (Chaudhry 2014).

Odii (2013) contends that social media is the medium to socialize as well as market and today, the plethora of social media networks are among the finest opportunities available to organizational marketers in their bids to connect with existing and prospective customers. Social networks are contents created online by people using highly scalable and accessible communication technologies available under various digital gadgets like smart phones, notebook, palmtops, multi-media player etc. (Samuel & Joe 2016). It represents how people discover, read and share news, information, contents, products and services. Social network applications provide users with new forms of empowerment and means of information sharing as it bridges the gap and physical barrier that exist in reaching out to the global community (Mahwish, Wajahat, Shazia, Hummaira & Nadia 2017). As much as it has become a strong tool for socialization and reaching out to people; many youths have taken keen interest and advantage in it to create a market share for financial rewards by attracting followers and subscribers and linking them as customers to valuable range of information, products and services which ordinarily would have taken more resources to access and find.

Social Media and Empowerment

Social media is influencing employment both as an industry that creates jobs and as a tool that empowers workers (users) to access new forms of work, in new and more flexible ways (Vein 2013). According to Vein (2013) the emerging ICT- enabled employment opportunities because countries around the world are looking to create more good jobs, which have positive economic and social implications for workers and for society. As regards "connecting to work," The new policy noted that Information and Communication Technologies could help expand employment opportunities and thus identified three global drivers responsible for the increase in ICT-related jobs worldwide:

1. **Greater connectivity –** more than 120 countries now have over 80 percent market penetration of mobile telephones
2. **Digitization of more aspects of work –** today, telecommuting and outsourcing have become standard business practices globally

3. **More globalized skills –** India and the Philippines have become major outsourcing hubs thanks to their English language skills, and other countries are targeting the sector for future growth (Vein 2013).

Social media enabled by various ICTs is providing new avenues for job creation that could help tackle global unemployment (Raja 2013). For instance, the development of the mobile phone applications industry has created new opportunities for small- and medium-sized enterprises (SMEs). A firm that provides a digital application to the Apple app store, for example, gains access to over 500 million app store account holders. Social media connect people to jobs. Online employment marketplaces are helping an estimated 12 million people worldwide find work by connecting them with employers globally. Babajob in India, Duma and M-Kazi in Kenya, and Souktel in the Middle East and North Africa are examples of job search services using internet-based and mobile tools. Such services empower workers by making labor markets more transparent and inclusive; for instance, Souktel targets low-income and marginalized communities (Raja 2013).

To maximize the positive impact of ICTs on employment, the World Bank in Vein (2013) recommends that policymakers pay attention to five enabling systems, adapting the mix as needed to the country context:

1. **Human capital systems:** A labor pool with appropriate ICT skills, and the awareness and soft skills that give competitive advantage in the labor market.
2. **Infrastructure systems:** Ubiquitous connectivity to ICT; access to electricity and transport; infrastructure to support innovation and adoption of technology by SMEs.
3. **Social systems:** Networks of trust and recognition for workers and employers, social safety nets, and measures to minimize possible negative outcomes of ICT-enabled employment.
4. **Financial systems:** Efficient and accountable systems to ensure timely payments; and access to finance to support innovation and entrepreneurship.
5. **Regulatory systems:** An enabling environment that creates employment opportunities and increases labor market flexibility while protecting the rights of workers.

Guided by these principles, the evolution of ICT which created social media made the social media the ideal cloud society where people of diverse backgrounds can meet and interact and offer services and products without boundaries and discrimination. Such is the potential of social media in empowering youths who take unique advantage of the social circle to offer services to their followers and subscribers or people in their contacts.

Prospects and Challenges of Social Media

As good as the evolution of the ICT has been, there have been also prospects and challenges.

Prospects: Social media is a significant media platform to disseminate information considering the huge number of people in using most prominent social media platforms. For instance, Facebook, is the largest social media platform in the world with more than 2.4 billion users while other social media platforms including Youtube and WhatsApp also have more than one billion users each. Amita (2016) contends that with the population of the world at 7.7 billion, at least, 3.5 billion people are always online at any point. These numbers are huge in terms of how viral a message or information can be shared and for advertisement and blogging.

Ambrose and Catherine (2013) believe that social media can play very significant roles in empowering its users especially youths in various ways; thus, social networking sites have become an important part of any youth's life. Ambrose and Catherine considered that the present era is enriched with social media, networks & ICT and youths are the most vulnerable users. Generally, they use internet mostly for entertainment but now is the time to make them aware about the benefits of technologies and also enlighten them on how to make their contributions to the development of the country (Amita 2016). The social media can be used for political,

economic, health, religious and social purposes. Therefore, the economic aspects of different plethora of social media usage of the different plethora of social media platforms available for Nigerian youths, thus:

i. **Online editors**: Online media is one of the most deep-rooted professions that have been created by the internet and social media. The online market or global community currently needs online communicators with a good command of languages such as English and power of persuasion.
ii. **Web developers:** With almost every organization and individuals needing to own a website, there is one opportunity for people to offer this service.
iii. **Data security specialist:** Everyone needs the affirmation that their information on the internet is safe. So that is an open opportunity that having the skills to maneuver the internet to secure intra-coms, websites, blogs among others from online hackers, has created an opportunity.
iv. **Online training and certification:** Today, formal and informal education can be online. Social media provide an unlimited gateway to educational advancement with available tools as well as promote science and technological growth. Scholars have argued that the internet is the ultimate interactive environment and offers education needed to move from what he described as a teacher-centered approach to learning, to a learner-centered approach. In order words, technology has become a major tool in driving modern learning and education.
v. **E-marketing:** Social media has significantly more potential than merely serving as a forum for sharing selfies and memes. That potential is something that's been recognized by nearly every company as an opportunity to help grow their business - many brands even feel 'invisible' without some type of social media presence. In some ways, this is true - social media can be used as a powerful marketing tool by businesses in nearly every type of industry.
vi. **Blogging:** Blogging is a discussion or informational website published on the World Wide Web consisting of discrete, often informal diary-style text entries (posts). Posts are typically displayed in reverse chronological order, so that the most recent post appears first, at the top of the web page. It can be hosted by an individual or a group and the bloggers earn money based on the volume of traffic to the site. An example of a successful blogger in Nigeria is Linda Ikeji.
vii. **Pay per view and pay as you view and click:** this is an area being explored by many creative people in the internet. It involves creating short videos, Memes and GIFs, and internet users pay for viewing the clips. In turn, the originators are paid heavily.

Challenges

Despite these bright prospects of social media towards empowerment, it has not been all rosy without challenges. Some of the challenges with social media usage are:

1. **Addiction:** The research by Chou, Condron, and Belland (2005) cited in Umeogu and Ojiakor (2014) observed that youths especially students have become obsessed with the internet, besides using it for academic purposes and thus can be said to be addicted to the internet. The reason for the addiction was laid on ease of access and low cost.
2. **Poor academic performance:** Studies have shown that social media is a huge distraction to students who spend most of their time visiting non educational sites. This becomes challenging as you need to find a balance between maximizing the prospects of social media while guarding against its effect on one's academics (Umeogu & Ojiakor 2014; Olasinde 2014).
3. **Cyber bullying or online harassment:** Cyber bullying or online harassment is the act of deliberately using digital media to communicate false, embarrassing, or hostile

information about another person. Though not common in Nigeria, it nonetheless takes place among students especially when it comes to dating. This can cause psychosocial outcomes like depression, anxiety and isolation (Amita 2016).

4. **Distractions:** Despite the new line of socioeconomic, educational and technological advancement opportunities opened by the social media, there is the fear that young people (digital natives) are very much distracted by the social media platforms. Agbawe 2018) found out that social media addicts give more than 20% of their daily time schedule to chatting or browsing on social media platform.
5. **Lack of self-control:** There is also the fear of lack of self-control by the young people in the use of social media leading to moral decay, low educational values and unethical behaviors, (Agbawe 2018; Umeogu & Ojiakor 2014).

In view of these enumerated challenges above, stakeholders in social media are optimistic that there are more gains in social media usage especially as regards empowerment which current overrides these challenges. There have been studies which have linked social media to empowerment and even paid fulltime employment. For instance; the study by Ojeleye, Opusunju, Ahmed and Aku (2018) on the impact of social media on entrepreneurship development among users in Zamfara State revealed that social media impact significantly on entrepreneurship development among users in Zamfara state of Nigeria.

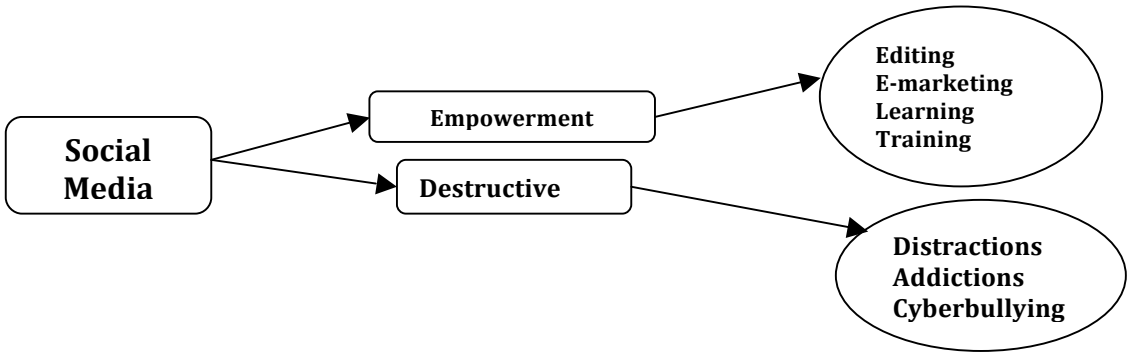
Also, Agbawe's (2018) study on Challenges and Prospects of Social Media on Digital Natives: the Case of Nigeria revealed that the digital natives are actually very much knowledgeable and aware of the social media platforms and that despite the horrendous challenges articulated, social media portends some prospects that could be harnessed to change the shape of society and the way businesses are done. These according to the author are salient points of empowerment. Agbawe's findings further revealed that young people could acquire relevant new skills and become efficient in a multi-task environment in the social media as forms of entrepreneurship and wealth creation.

Equally, findings by Umeogu and Ojiakor (2014) revealed that most times, the youths may be overwhelmed by the negative outcomes of social media use such as: social media addiction, social maladjustment and lack of self-control in the use of social media leading to moral decay, low educational values and unethical behaviors such as online fraud, promiscuous behavior, crimes and other e-related vices.

Framework

a. Conceptual

Figure 1: Social media empowerment and destructive model depicting aspects of social media that could empower users and inherent dangers that could also destroy users



Source: *Authors, 2020.*

The diagrammatic representation conceptualizes that the users of social media are usually pulled by the empowerment or destructive aspects of social media which is dependent on the aims and mindset of the user.

b. Theoretical

The study was anchored on Uses and Gratifications (U and G) theory of Social Media which emphasized that gratifications or benefits of media attract and hold audiences to various types of media and the types of content that satisfy their social and psychological needs (Ancu & Cozma 2009). Whilst researchers traditionally tended to emphasis the effects of media exposure on audiences, U and G theory espouses the need to consider what people do with media (LaRose & Eastin 2004; Ruggiero 2000). In this perspective, the perceived benefits and gratification which social media serve is a strong determining factor for youth's usage. As depicted in the conceptual framework, this could be destructive or empowerment. Such motives sustain the drive in the use of social media.

Hypotheses

The following hypotheses will guide the study:

i. Youths in Anambra State are aware of the empowerment prospects of social media usage.
ii. Youths in Anambra State use social media more for its leisure appeal than its empowerment prospects.
There will be significant gender difference in social media leisure and empowerment appeals among youths in Anambra State.

Method

Mixed method research was applied in the design which included descriptive and factorial designs while descriptive statistics and One-way analysis of variance were utilized as statistical tools for analysis. The participants were 143 social media users living in Anambra State (62 males and 81 females) drawn purposively through the researchers' active contacts from 3 social media platforms (Facebook, WhatsApp and Twitter). Their ages ranged from 19 to 31 years with a mean age of 23.50 and standard deviation of 1.10. The participants were presented with "Social Media Usage Perception Index" developed by the authors to access the social media perception and preferences of the participants especially as regards the social media prospects (empowerment or destructive), its appeal and gender preferences.

The Social Media Usage Perception Index was prepared as a list of questions with options and was electronically distributed to researchers' list of contacts domiciled in Anambra State and that are at least active in more than one social media platform. The participants were instructed on how to answer the questions and attach it back to the researchers through the platform. The online Index also contained demographic information which enabled the researchers to ascertain the participants' gender, social media usage frequency, state of origin and social media platforms they use.

Result

Table 1. Descriptive statistics on youths' awareness of the empowerment prospects of social media

S/N	ITEM	Responses							
		1	2	3	4	5	N	$\overline{X}$	SD
1	Social media has a lot of packages that can impact my life positively	29 20%	26 17%	-	45 32%	43 31%	143 100%	3.3	.7576
2	There is much I can learn through social media to improve my potential	15 10%	32 21%	7 5%	67 48%	22 16%	143 100%	3.3	2.670
3	I know about legitimate business opportunities available on the social media platforms	33 22%	38 27%	9 6%	34 25%	29 20%	143 100%	2.9	1.093
4	Social media creates opportunities for empowerment	-	-	38 27%	33 22%	72 51%	143 100%	4.2	.7974
	Total							**3.4**	1.3295

Source: Field work, 2020

The mean score analysis is indicative that youths' awareness on the empowerment potential of social media is high at M = 3.4, SD = 1.3295. The finding is indicative that the participants understand that social media could be used as a platform to engender empowerment in varying capacities such as learning an art, business and services and employment.

Table 2. Descriptive statistics on youths' social media user appeal

Social Media User Appeal

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Chatting, connecting friends and leisure	94	65.7	65.7	65.7
	Learning, empowerment and opportunities	49	34.3	34.3	100.0
	Total	143	100.0	100.0	

Source: Authors, 2020

The result in Table 2 shows that primarily, majority (65.7%) of the youths are attracted by social media by its leisure appeal and they use it for chatting, connecting friends and leisure compared to 34.3% of youths who use it for learning, empowerment and opportunities. The finding is indicative that greater population of the youths is focused in the leisure appeal of social media for past time leisure like chatting with friends and family, connecting friends and other leisure.

Table 3. Descriptive statistics showing the male and female social media user appeal

Gender	Social media user appeal	Mean	Std. Deviation	N
Male	Leisure	2.2687	.15298	23
	Empowerment	2.9706	.21087	39
	Total	2.6218	.02274	62
Female	Leisure	1.3081	.48939	57
	Empowerment	1.7500	.31906	24
	Total	1.5495	.12559	81
Total	Leisure	1.75024	1.02661	80
	Empowerment	2.35298	1.62557	63
	Total	2.0521	.17627	143

The result in Table 3 showed that significant differences were observed between males and females on social media user appeal at $F(1, 142) = 50.55$, $p < .05$. The result is indicative that greater number of females (57) has leisure appeal than empowerment appeal (24) whereas greater number males (39) prefer its empowerment appeal to its leisure appeal (23). The differences observed reached were statistically significant.

Discussion

The result recorded a high level of awareness on the empowerment potential of social media. It is not surprising going by the trending of social media as the new way of life which has bloated user's expectation as a new way of life in line with the proponents of technology determinism which emphasized mutual influence and impacts of society and technology. This is true especially when one considers the findings of Ambrose and Catherine (2013) that in reference to entrepreneurship growth, social media can play very significant roles in empowering its users especially youths in various ways; thus, social networking sites have become an important part of any youth's life. The awareness is huge and has become a driving force for youth users who has a lot of expectation from social media.

However, although youths are aware of the empowerment potentials of social media, the result of second hypothesis indicated that, majority of the youths are mostly attracted to the social media by its leisure appeal which includes: chatting, connecting friends, fun seeking and other forms of part time. The outlook in this perspective is not bright because the empowerment aspects of social media are one of the ingredients which make social media a good prospect especially for third world countries struggling with perennial unemployment. Equally, it further portends a kind of social and moral danger if youths are more interested in leisure than empowerment. Consider that Umeogu and Ojiakor (2014) found that most times, youths may be overwhelmed by the negative outcomes of social media use such as: social media addiction, social maladjustment and lack of self-control in the use of social media leading to moral decay, low educational values and unethical behaviors such as online fraud, promiscuous behavior, crimes and other e-related vices. This is because the in line with technology determinism theory, the society can be influences by technology and vice versa. Hence, the social media vices can spread to the physical society and affect the lives of even those who have never used a social media platform.

In this perspective, women other than men were also found to be more interested in the leisure appeal user preference of social media whereas it was confirmed that men were attracted to the empowerment appeal than the women. The finding is complimentary to socio-cultural underpinning of our African society which recognizes the males as bread winners and thus, their interest is more dominated with means of production than their female counterparts. In line with the findings of Ojeleye, Opusunju, Ahmed and Aku (2018) which found that social media impact

significantly on entrepreneurship development among users, there is belief that males will see social media as an extension of productive means than women who will see it as a platform for leisure. This is supported by Agbawe's (2018) findings that despite the horrendous challenges articulated, social media portends some prospects that could be harnessed to change the shape of society and the way businesses are done.

Implications of the Study

It is obvious from the findings that youths in Nigeria have not taken keen interest in the unlimited empowerment potentials of the social media other than its usage for leisure and part time. There could be two possible issues responsible for this: it is either there is lack of know how or there is lack of interest from the youths. With proper awareness, the youths of Nigeria can take advantage of the enormous empowerment potential of social media to create a living for themselves amidst the growing unemployment rate in Nigeria.

Recommendation

The authors advocate that there is urgent need for stakeholders in mass media to carry enlightenment programs for youths concerning prospects and challenges of the social media as part of their corporate social responsibility. There is also the need to train youths on the use of social media for the purpose of empowerment by leaders in the industry.

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Productivity, Sustainability, and Economic Growth in Metropolises: Estimates of Long-Time Commuting Effects in Developing Countries

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ABSTRACT: In this study, the long-time commuting patterns of workers in six of the biggest metropolises of the world were observed – New Delhi, Mexico City, São Paulo, Manilla, Nairobi, and Accra – located in very different geographic regions, and all of them coming from the developing world. The main question to be answered was whether there is scope for labor policy changes towards productivity improvements in this area. The findings brought fundamental insights to the debate about big cities' problems to avoid becoming more crowded, congested, and polluted, reducing sustainability, productivity, and economic growth. Simple random samples of workers in the Metropolitan Areas of each city were surveyed electronically, by 'Google-Forms e-survey' during the second half of 2019. The sample proportions were the estimators of the population proportions. Considering specific error margins – below 5 percentage points – for each city, and with a 95 percent point of confidence level, the authors used proportion (p) sample distributions to draw inferences about the population of workers. It was found that long-time commuters are between 12 and 26 percent of the workers who participated in the survey. More than 65 percent of workers in all the cities observed were interested in reducing commuting time. More than half of the workers agreed that reducing commuting time could improve labor productivity, and approximately the same share is aware of the negative effects on quality of life and health. Labor policy changes in these six metropolises have the potential of affecting more than 6.5 million workers.

KEYWORDS: commuting, estimates, metropolis, productivity, sustainability

Introduction

As time goes by and urbanization increases, there is an increase in traffic in any region of the world, and it is more prone to happen in the biggest cities and even more in developing countries metropolises. Commuting time tends to increase in the same direction, as well as environmental pollution since fossil fuels are still the most utilized. Productivity and sustainability are also affected. Long time and long-distance commuters are becoming very common in all the metropolises, especially in developing countries. Quality of life responds to these dynamics, for men and women, rich and poor, young and old, educated, and not educated. However, society does not know how exactly these differences are, in the aggregate and the individual level. The level of awareness of these variables and their relationships may be very low in significant population's proportions, nevertheless, in the biggest cities in the world, a little percentage may count in millions of people. Governments (national, regional, and local) through transport ministries and departments take care of this subject proposing more and better means of transport, demanding more investments, space, and time.

Governors and Mayors of the big cities tend to work 'by urgency,' prioritizing short-term solutions, and postponing long-term investments because they are mostly constrained by budgetary limits. Environmental issues are treated as a secondary, since they are 'important' but not 'an emergency,' like economic problems like unemployment and inflation. Sustainability is a long-term issue, so it can wait!

Employees worried about having jobs and money to take care of their families, prioritize the opportunities for employment based on the time between jobs – unemployment duration. The natural consequence is that the first opportunity of work is accepted, no matter how far it is from home, no matter how long-distance commuting will be needed.

Companies, in the name of the free market, offer job positions looking for the best employees, ignoring these commuting issues, even though the effects tend to spread and affect performance on the job.

In other words, there is a great number of problems that demand new kinds of solutions that are innovative in nature, technologically based, sustainability linked and should go in the direction of turning the biggest cities into more livable. However, to look for the best solutions, the first step is to deep dive into the problems to uncover the hidden factors. The deep dive assist in understanding whether there is a room or not for policy changes in the labor market – specifically in the area of the effect of long-time commuting on productivity, sustainability, quality of life and health of workers.

Although workers feel quality of life is reducing, the effect of environmental pollution is affecting their health, and time spent on commuting is growing out of control. Other factors tend to suppress the ones mentioned and therefore maintain people in this vicious circle. However, is the number of workers facing this problem significant? Are the workers aware of these effects? Is there a possibility of a solution based on labor policy change?

This work intends to collect empirical data in order to provide fresh evidence on the following questions:

1) Is the share of long-time commuters significant in the world´s biggest metropolises?
2) What is the average commuting time in these metropolises?
3) Are people interested in reducing the time spent commuting to work?
4) Do workers agree that reducing commuting time could improve labor productivity?
5) Are workers aware of the long-time commuting effects on their quality of life and health?
6) Is the number of people to be eventually affected by a labor policy change significant?

The answers to these questions are expected to lead to a conclusion which will state if there is room for labor policy changes towards a more productive and sustainable, healthier, and livable world.

Overview of Related Literature

All over the world, big cities have been observed to investigate the causes and effects of long distance and long-time commuting, since it is one of the believed big burdens of big cities. In this body of work, we highlighted some studies for the purpose of reflecting on their experiences.

Historical changes in spatial distribution and economic structure, as well as job and commuting patterns in US metropolitan areas, were investigated, and researchers used data from 1980 to 1990. Results had shown strong growth of suburban cities compared with central cities in each region, increased urbanization economies in suburban cities, the prevalence of suburban agglomeration economies, growing suburban employment centers influencing commuting patterns, and the dominance of suburb-to-suburb commuting. Above all, the authors identified that cities reshape themselves as companies and households chose strategies to lower the costs of transaction labor, services, and all manner of commodities (Lee, Seo, & Webster 2006).

In another research conducted in South Korea, Ma and Banister focused on the jobs-housing imbalance in the Seoul metropolitan area (SMA), aiming to contribute to the debate over sustainable urban development. Their empirical results demonstrated that commuters in the SMA have tried to reduce the imbalance based on time rather than the distance over ten years (1990-2000). The spatial processes of decentralization have been countered by the economic processes of faster travel, with saving as the net result to the commuting time (Ma & Banister 2006).

Another insightful study from the European continent observed changes in the geographical mobility of the populations of post-socialist countries from the 1990s on, focusing demographic and socioeconomic differences between commuters and stayers in the suburbs, as much as commuting time. The mobility of the labor force survey was conducted by the university of

Latvia in Riga. The authors (Krisjane, Berzins, Ivlevs, & Bauls 2012) have concluded that: i) the ones that have suburbanized over the last decade of the 20th century are much likely to commute than stayers, and ii) the probability of commuting is higher for the youngsters and the more affluent ones.

In South America, a team of researchers estimated the influence of the spatial growth pattern of Santiago-Chile, on the environmental impact of commuting.

Findings revealed that (Gainza & Livert 2013):

i) the travel impact increases as the city spreads out, because of the monocentric design of Santiago;

ii) commuting could be reduced by limiting commuters to the area that they live in; and

iii) the use of public transport reduces the impact.

In Shanghai-China, in a study to estimate commuting patterns, the authors assumed commuting as an essential part of urban life, recognizing that long-time commuting has negative effects on individuals and the society, such as stress, productivity loss, and air pollution by the traffic congestions. The study estimated employment locations, and interzonal commuting patterns in central Shanghai, concluding that the worst period is the morning peak hours (Li, Kwan, Wang, & Wang 2018).

Recently, a wider study observed quality of life in urban areas, focusing on development and planning debates. Factors such as environmental health, commuting times, house availability, and others were considered. Authors recognized that the accessibility in multimodal transportation is essential to the functioning of metropolitan areas, and decided to verify its effects on quality of life. They analyzed 148 cities in the US, measuring the percentage of workers who commute using multimodal options. The results had shown a higher quality of life in metropolitan areas with higher levels of multimodal commuting, reinforcing the positive impact of sustainable solutions of transportation policies on quality of life (Talmage & Frederick 2019, 370).

In a study of the relationship between commuting and labor productivity in Australian cities, the authors (Ma & Ye 2019, 25) concluded that:

i) the happy commuters are the more productive; and

ii) the short-distance commuters are more likely to be the happy commuters.

This study has begun as a pilot study in São Paulo-Brazil, to observe the trends in metropolises, and was presented in the IRES-International Conference in that venue, but not published. After the initial estimations, the study was widened into this major research, to observe the long-time commuting patterns of workers in six of the biggest metropolises of the world – New Delhi (India), Mexico City (Mexico), São Paulo (Brazil), Manilla (Philippine), Nairobi (Kenya), and Accra (Ghana) – located in very different geographic regions, and all of them coming from the developing world.

Methods and Procedures

A. Statistical treatment

In this research work, the authors used the sample proportion $\bar{p}$ to make statistical inferences about the population proportion 'p' (Anderson, Sweeney, & Williams 1998). The probability distribution for all possible values of the sample proportion $\bar{p}$ was called the sampling distribution of the sample proportion $\bar{p}$.

The expected interval for p was centered in the result from the sample, which is $\bar{p}$, the mean of all possible values of $\bar{p}$, is expressed as the expected value of $\bar{p}$:

$$E(\bar{p}) = p$$

Where $E(\bar{p})$ = the expected value of the random variable $\bar{p}$

p = the population proportion

The standard deviation of $\bar{p}$ was referred to as the standard error of the proportion. For an infinite population, the standard deviation $\bar{p}$ is expressed by

$$\sigma\bar{p} = \frac{\sqrt{p\times(1-p)}}{n}$$

Where $\sigma\bar{p}$ = the standard deviation of the random variable $\bar{p}$

p = the population proportion

n = sample size

The sampling distribution $\bar{p}$ is approximated by a normal probability distribution whenever the sample size is large (Anderson et al., 1998). The sample size for an interval estimative of a population proportion should be large enough to obtain an estimate of a population proportion at a specified level of precision. The margin of error associated with an estimate of a population proportion is $z_{\alpha/2} \times \sigma\bar{p}$. For a given confidence coefficient $1-\alpha$, $at\ z_{\alpha/2}$ can be determined.

$$n = \frac{(Z_{\alpha/2})^2 \times p(1-p)}{E^2}$$

The margin of error E was calculated by

$$E = z\alpha_{/2} \times \sqrt{\frac{p\times(1-p)}{n}}$$

They were specifying the margin of error as 'below 5%' the confidence level and its correspondence value of $z_{\alpha/2}$ required a planning value for the population proportion p. In this work, the authors based the value for $p \times (1-p)$ in a pilot study, using p = (0.30*0.70) = 0.21 with a confidence level of 95%, so the margin of error was considered for each city sample (n).

Jarque-Bera tests were conducted to check for normal probability distributions.

B. Data Gathering

A questionnaire with 12 questions was administered to workers employed in companies in each metropolis, without discriminating for gender, age, social class, or race. The only attributes demanded to participate were 'to live and work in any of the cities or areas that compose the metropolitan region surveyed.'

The questionnaire was distributed by workers of each city and region, in each country. The workers to distribute the questionnaires were hired by the authors through the 'Upwork virtual workers' (https://www.upwork.com/) and paid by a questionnaire answered. Some workers offered themselves voluntarily to spread the questionnaires in Accra, São Paulo, and Nairobi.

Calculations were done on Excel-Miner stats – 2016, E-views 11 - 2018 version, with samples randomly collected, using Google-forms survey. Jarque-Bera tests were conducted to check for the approximation to the normal probability distribution.

C. Criteria

In a pilot study conducted in São Paulo (Brazil), the commuting time pattern was (Table 1):

Table 1. Commuting Time Pattern in São Paulo-Brazil

Commuting time	Hours
Mean	1,6
Median	1,5
Mode	1

Source: A pilot study conducted in São Paulo

Based on this pattern, the authors assumed that long-time commuting – for the purposes of this work – is the commuting time spent three times the mode or more, so 3 hours or more.

The criteria to choose the megalopolises was i) to have six in total, ii) all of them from developing countries, iii) all of them below US$20,000 per capita, and iv) all coming from the list

of the 150 biggest metropolises in the world, issued by http://www.citymayors.com/ statistics/urban_2020_1.html and v) representing very different geographical regions in the world. The locals surveyed were (table 2), and the population of workers directly affected (table 3):

Table 2. Metropolises from the Developing World (Between the Biggest 150)

Country	Metropolises	World Population Rank Position	Population (2020)	Share of Population Employed	Total Labor Force
India	New Delhi	3	25,830,000	40.2%	10,373,716
Mexico	Mexico City	5	21,810,000	43.5%	9,489,406
Brazil	São Paulo	6	21,570,000	49.4%	10,666,250
Philipines	Manila	14	13,400,000	37.1%	4,968,695
Kenya	Nairobi	73	5,020,000	49.5%	2,483,675
Ghana	Accra	140	3,050,000	40.0%	1,221,005

Source: on http://www.citymayors.com/statistics/urban_2020_1.html

Table 3. Population Directly Affected in Each City

Metropolis	Unemployment Rate (3Q-2019)	Estimated Employed Labor Force	Simple Random Sample	Error Margin (with 95% of C. Level)
New Delhi	8.5%	9,491,951	505	4.0%
Mexico City	3.5%	9,157,277	499	4.0%
São Paulo	11.2%	9,471,630	405	4.5%
Manila	4.5%	4,745,104	570	3.8%
Nairobi	9.3%	2,252,693	543	3.9%
Accra	6.7%	1,139,197	317	5.0%

Source: https://www.worldometers.info

Results and Discussions

The share of long-time commuters showed to be significant in the world´s biggest metropolises, converging to a range from 12% to 26%, as can be seen in table 4:

Table 4. Share of Long-Time Commuters in Each City

Metropolis	Long-time commuters (p)	Error Margin (with 95% of C. Level)	95% C.L. Inferior Limit for p	95% C.L. Superior Limit for p	Number of workers Potentially Affected
N Delhi	14.5%	3.8%	10.7%	18.3%	1,504,189
Mexico City	17.8%	4.0%	13.8%	21.8%	1,689,114
São Paulo	12.1%	4.0%	8.1%	16.1%	1,290,616
Manila	25.0%	4.5%	20.5%	29.5%	1,242,174
Nairobi	23.2%	3.9%	19.3%	27.1%	576,213
Accra	25.9%	5.0%	20.9%	30.9%	316,240
				Total =	6,618,546

Source: Authors calculations

The average commuting-time in these metropolises were considered high, showed to be significant in all the cities, and also showed to converge, as shown in table 5:

Table 5. Average Commuting-Time in the Metropolises (hours)

	Mexico City	São Paulo	Manila	N Delhi	Nairobi	Accra
Mean	1.8	1.6	1.9	1.8	1.8	2
Median	1.5	1.5	1.5	1.5	1.5	2
Mode	0.5	1	1	1.5	1	0.5
Std Deviation	1.1	0.9	1.2	1	1.2	1.2

Source: Authors calculations

Findings showed that many more people than the long-time commuters (below 26%) are interested in reducing the time spent commuting to work. There is a potential to affect 6.6 million long-time commuting workers, but the share interested in avoiding commuting is higher, with the potential to affect almost 30 million workers, as seen in table 6:

Table 6. Share of Workers Willing to Changes to Avoid Commuting

Metropolis	Share of Workers (p)	Error Margin (with 95% of C. Level)	95% C.L. Inferior Limit for p	95% C.L. Superior Limit for p	Number of workers Potentially Affected
N Delhi	64.8%	3.8%	61.0%	68.6%	6,722,168
Mexico City	79.8%	4.0%	75.8%	83.8%	7,572,546
São Paulo	82.0%	4.0%	78.0%	86.0%	8,746,325
Manila	78.6%	4.5%	74.1%	83.1%	3,905,395
Nairobi	77.2%	3.9%	73.3%	81.1%	1,917,397
Accra	74.1%	5.0%	69.1%	79.1%	904,765
				Total =	29,768,596

Source: Authors calculations

A significant share of the workers which agreed that reducing commuting-time could improve labor productivity (table 7).

Table 7. Share of Workers Which Agree with Effects on Labor Productivity

Metropolises	Share of Workers (p)	Error Margin (with 95% of C. Level)	95% C.L. Inferior Limit for p	95% C.L. Superior Limit for p	Number of workers Potentially Affected
N Delhi	55.7%	3.8%	51.9%	59.5%	5,778,160
Mexico City	72.3%	4.0%	68.3%	76.3%	6,860,841
São Paulo	79.5%	4.0%	75.5%	83.5%	8,479,669
Manila	53.7%	4.5%	49.2%	58.2%	2,668,189
Nairobi	68.9%	3.9%	65.0%	72.8%	1,711,252
Accra	68.5%	5.0%	63.5%	73.5%	836,389
				Total =	26,334,500

Source: Authors calculations

The share of workers aware of the long-time commuting effects on their quality of life and health is also shown to be much higher than the long-time commuting share, as seen in table 8.

Table 8. Awareness of Long-Time Commuting effects on Quality of Life and Health

Metropolis	Share of Workers (p)	Error Margin (with 95% of C. Level)	95% C.L. Inferior Limit for p	95% C.L. Superior Limit for p	Number of workers Potentially Affected
N Delhi	55,6%	3,8%	51,8%	59,4%	5.767.786
Mexico City	87,9%	4,0%	83,9%	91,9%	8.341.188
São Paulo	73,2%	4,0%	69,2%	77,2%	7.807.695
Manila	62,2%	4,5%	57,7%	66,7%	3.090.528
Nairobi	57,5%	3,9%	53,6%	61,4%	1.428.113
Accra	68,8%	5,0%	63,8%	73,8%	840.052
				Total =	27.275.363

Source: Authors calculations

Conclusions

The authors found convergence in commuting patterns in metropolises of developing countries, and in the worker's behaviors and interests concerning long-time commuting. The authors concluded that there is room for labor policy changes towards avoiding commuting, and the positive effects on the quality of life and health of the workers may be significant. Moreover, the number of workers potentially affected showed to be astonishing, with possibly high gains in productivity, sustainability, and livability in many developing country cities in the world.

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Contemporary Models of Access to Customers in Serbian Banking Sector

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ABSTRACT: Globalization and increasingly intense competition have led to a new concept of access to bank customers. The new approach involves increasing the sales of banking products and services, maintaining existing customers, attracting new customers, and at the same time maintaining a high level of competitiveness. The new approach to bank customers is using contemporary Customer Relationship Management (CRM) models, which support cross-selling processes. In the banking sector in Serbia, different forms of promotion are used in sales strategies: advertising, sales promotion, public relations, directs sales, direct marketing, sponsorship, and other forms. In the constant search for new clients, emphasis is placed on the predictive CRM environment. The predictive environment, by collecting and analyzing data from the media, from social networks, various services and other sources, better defines needs, and creates personalized offers for bank customers. The aim of this paper is to analyze the application of contemporary models of access to customers in the banking sector of Serbia, primarily the "Banking CRM model". The paper will make a significant contribution in terms of understanding the CRM concept in Serbian banking sector, and the possibilities of its application in contemporary banking practice, in order to improve that the bank's sales message reaches the customer in the form of integrated personalized campaigns.

KEYWORDS: CRM, banking sector, Republic of Serbia, customer relationship

Introduction

In ever-changing market conditions and dynamic competition in banking sector, one of the most important capabilities is not only creating quality products and services, but also building a strong business relationship with clients. Customer Relationship Management (CRM) concept is important tool that puts clients at the center of banking activities (Marinković & Senic 2012). It is a policy towards attracting and retaining organizational customers (Abbas & Hafeez 2017). Customer Relationship Management in the banking sector involves understanding the customer's changing needs, developing services to satisfy these needs by building long term relationship with the customers (Abbas & Hafeez 2017)

Today, banks need a whole new strategy to keep their customers loyal. More than ever, meeting customer needs seems to be an impossible mission, and CRM strategy emerges as a solution that helps attracting and retaining the most profitable customers (Ćirić 2009). Critical factor in effective implementation of CRM concept, in addition to an adequate strategy, is educated workforce, who will increase and maximize efficiency of CRM strategy. Meeting the needs of clients leads to the improvement of bank's profitability and better market position.

CRM in modern business organization

Customer Relationship Management (CRM) is a managerial approach that involves identifying, attracting, developing, and maintaining customer relationships to meet the goal, i.e. retain clients (Bradshaw & Brash 2001). Modern business operations are aimed at creating, strengthening and developing strong client relationships, carefully selected to improve profitability, and also to create more customer value (Payne 2002). McKenzie views Customer Relationship Management as a combination of organizational strategy, information systems, and technology that is focused on providing better customer service (McKenzie 2001).

Based on the above, CRM represents the alignment of business strategy, organizational structure and information technology. When establishing a CRM concept, it is necessary for the organization to specify the most relevant business aspects, the information that clients' need, the client's financial history, but also the identification and elimination of information that is not needed. There are several commercial CRM software packages on the market that support the CRM strategy, but the essence is by no means anything *technological*, but a fundamental change in organizational philosophy, with an emphasis on the client (Ćirić, 2013). The basic structure of CRM concept consists of operational, analytical and collaborative CRM (Payne 2002).

Operational CRM is the basic feature of which is the existence of a single integral database in which all customer information is stored. Operational CRM collects, stores and sorts it through a client monitoring program.

Analytical CRM includes the activities of collecting, storing, selecting, interpreting, processing and using the data obtained for different purposes (e.g. quality of service analysis, risk analysis, customer profitability analysis, customer departure analysis, etc.). Analytical CRM is a database collected from internal and external sources. On the basis of expert analyzes of these databases, attitudes are created about the clients, about each individually, his needs, all with the aim of developing relations on quality bases. Analytical CRM is the most complex and responsible part of CRM system. The development of successful consumer relationships, and thus the success of CRM concept, requires that all elements of an institution be integrated into one whole.

Collaborative CRM enables direct interaction, i.e. communication between clients and the bank through different channels. Introducing the offer to customers is done through a marketing approach using all the benefits of advanced technology. Personal contacts, telephone, e-mail, internet, mail and specialized propaganda institutions are also used. Collaborative CRM is in the function of communication to the client, while their responses are registered through operational CRM.

Although the concept of CRM can be made as a whole new story, it has actually been around for a long time and has become a daily focus of bank employees, thanks to modern and accessible technologies. Today's clients are sophisticated, informed, and have a huge choice. If a bank wants to be part of that choice, it must address and respond to clients' needs. CRM is focused on the needs and desires of clients, not the service itself (Smajlović & Umihanić 2007). For this reason it is necessary to reorganize the present way of doing business in order to realize CRM strategy. The success of CRM in the banking sector requires the application of appropriate information technology and software solutions, tailored to the specifics of the banking customer service process.

Role of service quality in Customer Relationship Management

Contemporary business organizations are constantly looking for new managerial techniques and tools to enhance customer relationship management and meet customer requirements for new products, processes and services. The fact that customer satisfaction is one of the measures of business organization's success, and is of great importance for achieving a competitive advantage, puts it into the focus of every organization's business strategy (Marinović Matović 2019). Service quality is a category that is of great importance for business performance in financial institutions (Reza & Bita 2019). Providing high quality services enables the bank to achieve its basic business goals, such as customer satisfaction, market share growth, attracting new clients, profitability. In increasingly competitive business environment, building close relationships with clients is essential for business development and success. The ability to provide a high quality service, that will meet or exceed the customer's needs, is the basis for building competitive advantage in banking sector (Enew & Waite 2007). A great deal of effort and knowledge is required to provide quality service in the highly variable environment in which

banks operate in the Republic of Serbia, since banking market in Serbia is relatively limited, and Serbian banking sector shows signs of saturation (Marinović Matović 2018a).

When it comes to banking services, special attention should be paid to the qualitative and quantitative benefits that can be achieved by improving quality. Regarding the qualitative benefits, it was found that the quality of services contributes to customer satisfaction and vice versa (Dašić, Mihić, & Supić 2014). In addition, customer satisfaction greatly influences the business operations, image, and new customers' inflow in a bank (Zairi 2000). Regarding the quantitative advantage of bank services, they contribute to the profit increase. The bank spends far more money, time and resources to attract new customers than retaining existing ones (Zairi 2000; Dawes & Swailes 1999).

In banking, it is much more difficult to determine the criteria of service quality, since any encounter with a client may differ from the previous one, depending on the needs of service users. The service quality may be different, depending on the service provided by the bank employee. The service quality is evaluated after the service is completed, which is referred to as *service result quality* by some authors, and as *physical technical service quality* by others (Parasuraman, Berry, & Zeithaml 1985). Service users are not only interested in service itself, but also in the way it is provided, which largely depends on the banking workforce. The service quality is mostly influenced by the nature of relationships that arise between the bank employees and the service users, for this reason mystery shopping is one of the best ways to check the banking service quality (Pinar, Eser & Strasser 2010).

One of the most commonly used instruments for service quality measurement is the Servqual model (Hoffman & Bateson 2011). The Servqual model is a 44-item scale that measures customer expectations and perceptions regarding the five dimensions of service quality. The dimensions on which this model is based are: reliability, assurance, tangibles, empathy and responsiveness. This is a diagnostic tool that reveals the strengths and weaknesses of businesses in the field of service quality (Parasuraman, Berry, & Zeithaml 1985). The Bankserv scale for measuring service quality has compensated for the shortcomings of previous measurement instruments (Avkiran 1994). This scale is an attempt to adjust the scales to measure the service quality in the banking sector. The basic determinants of the Bankserv scale are: staff conduct, credibility, communication, and access to teller service (Avkiran 1994). However, an objection may be made to this scale, as well as to Servqual scale, that it neglects the output of service process. As a result of this objection, the Bankperf scale was formed. The Bankperf scale differs in two basic elements from the Bankserv scale. In this scale, preference is given to the output in the service process over expectations and service impression.

In practice, other instruments are also used to measure the service quality in the service industry and therefore banking sector. Some of the methods of service quality research are: post-transaction research, new and existing customer surveys, focus groups, as well as customer satisfaction surveys through CRM, mystery shopping, as well as many telephone surveys of customer satisfaction, and meeting client expectations at banks (Lovelock & Wright 1999).

Key performance indicators of CRM success

There is growing skepticism in the scientific and professional literature about the value of CRM concept and achieved improvements in business performances (Garrido-Moreno, Lockett & GarcíaMorales 2014). Research, however, confirms that effective and efficient implementation and management of customer relationships using CRM tools can affect competitiveness. Customer databases are a mechanism for creating knowledge about them, which is the basis for making business decisions (Peltier, Zahay & Lehmann 2013).

Customer Relationship Management relies on the collection and processing of data to help organizations identify target groups and adapt to market needs. In a time of globalization and ever-changing environment, new technologies play a key role in implementing the CRM strategy. In addition to technology, investment in human and organizational resources is needed to help

organizations make the most of CRM benefits (Keramati, Mehrabi & Mojir 2010). Many authors emphasize the importance of human resources and employee commitment when it comes to managing customer relationships and improving bank performance (Kim, Suh & Hwang 2003; Ghalenooie & Sarvestani 2016; Santouridis & Tsachtani 2015). The implementation of CRM system is closely linked to the Human Resources (HR) department. It is very important that employees are trained for the use of CRM systems and receive sales promotion training. Employee compensations are desirable as a motivation to focus on customer satisfaction and provide them with long-term support (Chen & Wang 2006). Employees of bank branches are of particular importance for effective Customer Relationship Management, since they are directly related to customers (Boulding, Staelin, Ehret & Johnston 2005).

Successfully implemented CRM system requires changes in the organizational structure and resources. Organizational resources include culture, structure, knowledge management, support and involvement of top management (Araya, Chaparro, Orero & Joglar 2007). Management support is especially important when introducing CRM system, and later, teamwork, networking and employee collaboration, to meet client expectations (Becker, Greve & Albers 2009).

Organizational commitment and knowledge management are identified as fundamental factors that influence the success of CRM system, which are directly influenced by CRM technology infrastructure (Garrido-Moreno, Lockett & GarcíaMorales 2014). Technology infrastructure includes customer service technologies, adequate hardware and information system. The organization's commitment is reflected in the understanding and implementation of CRM initiatives by all employees of the organization. The same is confirmed by Shang & Lin (2010), who state that the success of CRM depends on employees, their understanding of the importance of customers, and their focus on customers. This is in line with the Resource-based management approach, which emphasizes the importance of employees in the strategic positioning of organization (Hooley, Piercy & Nicouloud 2008). The organization's commitment involves all levels, from top management to operational functions (Mendoza, Marius, Perez & Griman 2007). The organization's commitment is also reflected in Customer Relationship Management training, as well as a compensation system for successful CRM system (Garrido-Moreno, Lockett & GarcíaMorales 2014).

In order to be able to implement CRM system, it is necessary for the organization to have knowledge, that is, information about its customers. In Customer Relationship Management, every piece of information and knowledge that client brings is valuable, in order to shape the offer according to the characteristics, requirements and preferences of individual customer. Extensive information technology development enables the accumulation and management of a large amount of data on business, clients, etc., which further provides an important basis for support in making various management decisions (Shaw, Subramaniam, Tan & Welge 2001). In addition to tools for collecting and storing large amounts of data, techniques for analyzing, understanding, and even visualizing large amounts of data are important to support decision making (Marinović Matović 2018b).

Customer Relationship Management processes takes into account all activities within the bank that affect the quality and duration of customer relationships (Santouridis & Tsachtani 2015). The processes are divided into activities that are necessary for the sale of products and services, support activities, and data analysis from the previous two processes (Geib, Reichold, Kolbe & Brenner 2005). Customer Relationship Management consists of four dimensions: customer identification, acquisition, retention and development of customers (Ngai, Xiu & Chau 2009). Customer identification is the identification of clients in the acquisition process. At this stage, a target group is defined, made up of people who are most likely to become clients of the bank, or who will make the most profit. This dimension analyzes the customers who have left the bank, as well as the steps that should be taken to get them back. Elements of customer identification are target group analysis and segmentation of leads (Wu, Kao, Su & Wu 2005). The identification of potential clients is followed by the phase of customer acquisition in different

ways, depending on the available resources of the bank. Customer retention involves marketing campaigns with individual clients, loyalty programs, personalized campaigns and the proper handling of customer complaints (Kracklauer, Mills & Seifert 2004). In this way, banks are able to analyze, detect and predict changes in customer behavior. Customer development involves analyzing customer needs depending on the life stage they are in, offering other bank products, and analyzing purchasing power and market conditions (Ngai, Xiu & Chau 2009).

There is no single definition of the success of CRM concept, but success can only be measured through the degree of business goals achievement (Eid 2007), such as customer acquisition, customer retention, customer satisfaction, customer loyalty, etc. Bank profitability is influenced by customer satisfaction and loyalty (Ozatac, Saner & Sen 2016). Customer satisfaction is important for banks as service organizations, and it is linked to the service quality (Anderson & Sullivan 1993). Customer satisfaction leads to a more stable and long-term relationship between the bank and customers, which ultimately leads to an increased degree of loyalty and consequently bank profitability (Ozatac, Saner & Sen 2016). This is why customer satisfaction is most often highlighted as the first indicator of Customer Relationship Management success (Chirica 2013).

Conclusion

Further economic growth of banking sector in the Republic of Serbia will depend to a large extent on the dynamics of doing business, in order to meet customer expectations as successfully as possible. The essential focus of banks on customer requirements will be crucial for the growth of their revenues, as well as the precondition for their sustainability and survival in the market.

Customers' needs are the essence that defines every industry, especially those that are in direct contact with their customers, as in the banking sector. If banks do not focus on customers' needs, customers will feel that they are buying products and services they do not really need, and do not address their needs. The result can be a failure to meet customer expectations leading to disloyalty and even leaving the bank. In order to prevent these unfavorable situations, it is important that banks actively use the CRM concept in their business and that the implementation of CRM approach is taken most seriously from the top to the bottom of the banking organizational structure.

It is very important for employees at all levels of the bank organization to understand the importance of Customer Relationship Management, and to adopt a software solution and implementation of its use. CRM collects detailed data in relation to customer behavior, purchase of products and use of services, as well as information provided to a commercial bank, such as income level, job position, employment status, qualifications, marital status, and the like. Based on the information collected, personalized customer service is offered, that is, a product exactly created for a specific customer. In this way, the customer satisfaction with the service received is far beyond the expectations, and the customer is very satisfied with the quality of service provided by the bank. These processes require investment in information technology, in order to generate higher revenues, increase customer satisfaction, increase customer base, and expand market share. These processes also require additional employee training, a change in awareness of working with clients, greater transparency and openness to clients, as well as a client's trust in banks for disclosing personal information.

CRM is a management tool that seeks to build long-term customer relationships. An effective relationship depends on understanding the different needs of clients at different stages. Banks' ability to provide the right answers to their customers' needs makes customers feel like valuable individuals, not just as part of a large number of users. Banking and financial institutions are constantly searching for a new clients, as well as ways to retain existing ones. In the future, high emphasis will be placed on the predictive CRM environment, which will better define needs, create personalized products, and allow the message to arrive at the right place in the right time, by collecting and analyzing media data, from social networks, various services and other sources.

It is necessary for the banking sector in the Republic of Serbia to ensure a high standard of quality and professionalism with customer as a central point. The goal begins with each employee, so individual performance should include qualitative goals such as: integrity, kindness, responsibility, professionalism, knowledge, training, consistency, discipline, and most other positive qualities.

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Some Aspects Specific to the Investigation of Corruption Acts

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ABSTRACT: Corruption can be considered the oldest form of crime that has accompanied the development of human society so far, and probably a long time from here on. The topicality of the approached topic has its roots in the urgent need to combat this dangerous reality by adopting a fair and stable legislation, without the existence of loopholes to encourage criminal perseverance. In this article we will emphasize the need for legal regulation of the facts and acts of corruption both internally and internationally, as well as the presentation of the methods or tactics that can prevent or, as the case may be, combat these antisocial facts if the function of prevention of the law did not produce the expected effects, such as the search, the hearing of the suspects, the accused and the witnesses, the flagrant or the spot investigation. With its sanction, corruption has also become a legal phenomenon, crossing purely social borders and becoming a source of criminal consequences. Thus, corruption becomes a legal fact, regulated by rules that attract the most serious form of liability in case of their violation.

KEYWORDS: crime scene investigation, corruption, flagrant, hearing, investigation, search

Domestic and international normative framework of corruption

In the context of globalization over the last decade and the tendency to standardize criminal law at European level, at least under the context of incrimination of the same crime, corruption offenses have been the subject of an analysis that was the basis of an European anti-corruption strategy, a strategy that has materialized, on the one hand, through treaties and conventions, and, on the other hand, through the creation of strong anti-corruption institutions (Teodorescu 2016, 13).

The desire to suppress this harmful phenomenon has materialized worldwide since 1958 when the European Committee for Criminal Matters was set up within the Council of Europe, whose main tasks are to supervise and coordinate the Council's activities in the field of preventing and combating corruption.

A structure with significant repercussions in the fight against corruption is represented by the Group of States against Corruption - GRECO, which is responsible for identifying weaknesses in the anti-corruption political systems of the Member States and facilitating the exchange of the most effective practices by providing a platform (Moise and Stancu 2017, 197).

In 1994, the concept of corruption was analyzed by the Multidisciplinary Group on Corruption, set up by the Committee of Ministers of the Council of Europe, which provided the following definition: "corruption includes occult commissions and all other measures involving persons invested with public or private functions, who have breached their obligations arising from their status as a public servant, private employee, independent agent or such relationship, in order to obtain illicit benefits, regardless of what nature, for themselves or others" (Stancu 2015, 724).

Under the aegis of Council of Europe was adopted in Strasbourg on January 27, 1999 the Criminal Law Convention on Corruption, which entered into force on July 1, 2002, ratified by Romania by Law no 27 of January 16, 2002, published in Official Gazette no 65 of January 30, 2002. This convention also includes other relevant provisions in many sectors, such as: the use of special investigative techniques to facilitate the collection of evidence, identification, blocking, seizure and confiscation of property from corruption offenses, mutual legal assistance, extradition, etc. Also, the Member States of the Council of Europe and the European Community adopted in Strasbourg on November 4, 1999 the Civil Convention on Corruption, which defines in art. 2 "corruption", by which "is meant to solicit, offer, give or accept, directly or indirectly, an unlawful commission or other undue advantage or the promise of such undue advantage that affects the

normal exercise of a function or behavior required of the beneficiary of the wrongful commission or of the undue advantage or of the promise of such undue advantage". This act was ratified by our country by Law no 147 of April 1, 2002, published in Official Gazette no 260 of April 18, 2002, with the purpose of implementing its provisions regarding the measures and means necessary to be created in support of the persons injured by antisocial acts in this sphere.

One of the most recent international initiatives was the development of laws in The Southeastern European Legal Development Initiative - S.E.L.D.I. with the aim of monitoring corruption on a regional scale. Besides Romania, many other countries are monitored, such as: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia etc. The main activity of this program is to carry out analyses designed to emphasize the public significance of the problem of corruption and its degree of penetration in the political, economic, social and administrative structures (Stancu and Ciobanu 2018, 260).

At the international level, in 2003 the General Assembly of the United Nations adopted the United Nations Convention against Corruption which addresses issues similar to those dealt with in the main Convention of the Council of Europe.

The Criminal Code of Romania of 1968 (adopted by Law no 15/1968, published in the Official Bulletin of the Socialist Republic of Romania, Part I, no 79-79 bis of June 21, 1968, entered into force, January 1, 1969 and republished in The Official Gazette of Romania, Part I, no 65 of April 16, 1997, currently repealed) regulated in Title VI of the Special Part the offenses that affect certain activities of public interest or other activities regulated by law, the most numerous texts of the Romanian Criminal Code being found in this title, which presents a wide area of criminality, united by the same generic legal object: "the bundle of social relations whose existence is ensured by defending social values such as: the good functioning of state organizations, as well as of the public ones, the legal interests of the people, the execution of justice, the safety of the traffic on the railways ".

Taking into account the evolution of the criminal phenomenon in the sphere of the exercise of public functions, as well as the international acts in this matter to which our state has acceded, the Law no 78/2000 for the prevention, discovery and sanctioning of corruption facts, published in the Official Gazette no 219 of May 18, 2000, with the subsequent modifications and completions, normative act that in art. 2 circumscribe the purpose of this special regulation, as follows: "The persons provided in art. 1 are obliged to fulfill the duties incumbent upon them in the exercise of the functions, duties or assignments entrusted, with strict observance of the laws and norms of professional conduct, and to ensure the protection and realization of the legitimate rights and interests of the citizens, without using the functions, the duties or assignments received, for acquiring for them or for other persons money, goods or other undue benefits". Before this law was amended, it was stipulated in art. 5 a classification of the crimes that represent the object of regulation of the law in question, framing them into four categories: corruption offenses - those provided in art. 254-257 of the Criminal Code, at art. 61 and 82 of the law, as well as the offenses provided for in special laws, as specific modalities of these offenses; crimes assimilated to corruption offenses - those provided in art. 10-13 of the law; offenses in direct connection with corruption offenses - those provided in art. 17 of the law; offenses against the financial interests of the European Communities - those provided in art. 181 - 185 of the law (Glodeanu 2009, 5-9).

After amending these provisions by art. 79 point 1 of Law no 187/2012, which entered into force on February 1, 2014, corruption offenses are provided for in art. 289-292 of the Romanian Criminal Code, including when committed by the persons provided for in art. 308 of the Romanian Criminal Code. In par. (2) it is provided that offenses are assimilated to the corruption offenses the offenses provided in art. 10-13, and in par. (3) it is specified that the provisions of this law are also applicable to offenses against the financial interests of the European Union provided for in art. 181-185, sanctions that ensure the protection of the funds and resources of the European Union.

The Criminal Code adopted by Law no 286/2009, published in Official Gazette no 510 of July 24, 2009, which entered into force, according to the provisions of art. 246 of Law no 187/2012, on February 1, 2014, regulates in Title V of the Special part "Offenses of corruption and

service", this being structured in two chapters: Chapter I – "Offenses of corruption" (articles 289-294) and Chapter II – "Offenses of service" (articles 295-309).

In contrast to the Criminal Code of 1968, which regulated, in Chapter I of Title VI of the Special Part, together, the offenses of service and those of corruption under the name of "offenses of service or in relation to the service", this normative approach being criticized since the publication of the Romanian Criminal Code, considering that "in a perfect classification the chapter should have included only the offenses of service, but the demands of a perfect classification could not be respected, because the close connection they have with the duties of the service required that the offenses related to the service be included in this chapter". In this sense, it was appreciated that the offenses of service "can have no immediate active subjects than officials or other employees", whereas in the case of crimes related to the service, "direct active subjects can be any person".

Specific problems to the investigation of corruption acts

The term of corruption originates from the Latin "Coruptio" which defines the activity of the official who sells his position, deceiving the trust with which the society has invested by assigning the position (Cristiean 2017, 151).

The corruption of the judiciary mainly affects the evolution of the rule of law (justice represents in a liberal democracy a power in the state) and, in the alternative, the prestige and activity of the magistrates who carry out their activity in compliance with the laws and professional deontology (David 2014).

In case of corruption offenses, offenses similar to those of corruption or offenses in direct connection with corruption offenses (hereinafter - corruption offenses as a whole) it is necessary to follow and observe certain predetermined rules, as the illicit acts of corruption have their own investigation methodology (Aionițoaie 1977, 71).

In the light of art. 288 of the Romanian Criminal Procedure Code (Law no 135/2010 on the Criminal Procedure Code published in the Official Gazette, Part I no 486 of July 15, 2010, as amended and supplemented), the competent criminal investigation bodies, Prosecutors' Offices attached to the Tribunals and the National Anti-Corruption Directorate, must be notified by the following means: complaint, denunciation, the documents concluded by other bodies established by law or these state institutions are notified *ex officio.*

Also, for the discovery and investigation of corruption offenses, Law no 78/2000 and G.E.O. 43/2002 regarding the National Anticorruption Department, published in Official Gazette no 244 of April 11, 2002, as amended and supplemented, establishes the obligation of the following persons to notify the criminal prosecution body:

- persons with control powers with regard to any data or indications resulting from an illegal operation or act. They have the duty, during the control activity, to take the necessary measures for the preservation and assurance of the means of evidence that can contribute to the elucidation of the case;
- persons who carry out, control or provide specialized assistance, insofar as they participate in the adoption of decisions or have the ability to influence them. This category includes those who take part in operations involving the circulation of capital, bank, foreign exchange or credit transactions, investment transactions, exchanges, insurance, domestic and international commercial transactions regarding amounts of money or goods on which there was the suspicion that they would come from committing corruption offenses;
- the services and bodies specialized in collecting and processing information that have the task of bringing to the attention of the criminal prosecution bodies including those data related to the perpetration of corruption acts (Petre and Trif 2016, 54).

Article 291 of the Romanian Criminal Procedure Code establishes the obligation of the following persons to inform the specialized bodies of criminal prosecution of any act of corruption: those with management function within an authority of public administration or within other public

authorities, public institutions or to other legal persons of public law, as well as any person with control powers, who, in the exercise of their duties, became aware of the commission of an offense for which the criminal action is initiated ex officio, are obliged to immediately notify the prosecution body criminal and to take measures so that the traces of the crime, the criminal bodies and any other means of proof do not disappear; any person exercising a service of public interest for which he has been invested by the public authorities or who is subject to their control or supervision regarding the performance of the respective service of public interest, who in the exercise of his duties has become aware of having committed an offense for which the criminal action is set in motion ex officio, is obliged to immediately notify the criminal prosecution body.

The judicial authorities that have become aware of the perpetration of a corruption act must clarify many issues, among which we specify (Stancu 2015, 755):

- *the quality of the perpetrator* - in relation to the criminal activity carried out by the active subject, its perpetrator may be a person who exercises a public function or control duties, who participates, as a service attribution, in making decisions or who can influence them, a person who has a leadership position in a party, union, employer organization, foundation, etc.;
- *the illicit activity* - carried out by the perpetrator, alone or in criminal participation, the mode of operation, the means of committing the deed, links with various institutions;
- *purpose of the antisocial activity* - this question implies establishing the existence of the purpose with which the perpetrator acted, more precisely if the perpetrator did the illegal activity with intent because the presence of a special purpose contributes to a correct legal classification of the deed; money, assets, values or other patrimonial benefits.

The forensic investigation of the acts of corruption demands the use of *special measures* on the background of the existence of solid indications for committing corruption offenses, in order to gather evidence to establish the criminal responsibility of the perpetrator.

Article 138 (1) of the Romanian Criminal Procedure Code lists in full the activities which constitute special methods of surveillance and investigation, thus:

a) Interception of communications or any type of remote communication;
b) Access to an information system;
c) Video, audio or photography surveillance;
d) Tracking or tracing by technical means;
e) Obtaining data on a person's financial transactions;
f) The detention, handing over or search of postal items;
g) Use of undercover investigators and collaborators;
h) Authorized participation in certain activities;
i) Supervised delivery;
j) The acquisition of data generated or processed by providers of public electronic communications networks or providers of publicly available electronic communications services.

The National Anti-corruption Directorate is allowed to possess and use appropriate means to obtain, verify, process and store information on corruption acts regulated in Law no 78/2000. By way of example, the National Anti-corruption Directorate may order the supervision of bank accounts and accounts treated as such; the putting under operational supervision of the perpetrators and/or the interception of their communications; access to the information systems used by the participants in the crime. In order to clarify technical invoice problems (financial, banking, accounting and so on) within the National Anti-corruption Directorate, specialists with long experience and professional training are active in multiple fields, such as economic, financial, customs, IT or other fields related to corruption (Stancu and Ciobanu 2018, 264).

The criminal prosecution activities traditionally carried out following the commission of corruption offenses are: searches of all kinds, removal of objects and documents, hearing of suspects, defendants and witnesses, findings and expertise, flagrant, on-the-spot investigation, reconstitution, preservation of computer data.

Search is a procedural act consisting of searching for, discovering and removal of objects, documents containing or bearing traces of the crime or of the crime bodies and which may result in the gathering of evidence concerning the commission of the investigated criminal offense or the apprehending of the suspect or defendant (Stancu and Ciobanu 2018, 264).

The complex role of search, much more important than that of the removal of objects and documents, also stems from the fact that, in the interests of justice, the prosecution bodies can carry out this procedural act in compliance with legal provisions even if, apparently, other rights or values protected by criminal law are violated, such as inviolability of residence and person or secrecy of correspondence.

The headquarters of the matter on search is shaped by Articles 156-168[1] of the Romanian Criminal Procedure Code and the criminal proceedings for the removal of objects and documents are limited by article 169-171 of the same code.

The search may be domiciliary, corporeal, IT or on a vehicle, but for the treatment of the subject addressed in this paper, it is of particular interest that the domicile and IT search are fulfilled with respect for the dignity and avoiding a forced, disproportionate interference in the private life of each individual.

The importance of carrying out the search and the removal of objects or documents emerges from its purpose in the sense that, in many criminal cases, this procedural activity obtains a decisive note in solving the cases because it contributes to obtaining absolutely necessary evidence for proving the offender's guilt or even identifying the author.

Hearing of suspects, defendants and witnesses. The process of hearing the suspect or the defendant is addressed in articles 107-110 of the Romanian Code of Criminal Procedure, which contain provisions regarding the questions about the person being heard, the communication of rights and obligations, the way of listening and the recording of statements. In order to establish the objective truth likely to be camouflaged by the perpetrator, the judicial bodies also proceed to take the statements of the injured person if the victim chooses to acquire this quality by constituting under the legal provisions. As the entity that has suffered directly from the repercussions of the antisocial acts committed, it is presumed that the injured person will provide the most complete and accurate information on the subject of the criminal investigation, but most of the times a strong affective disorder puts a mark over it that prevents it from offering solid guarantees of truthfulness. Therefore, often even the honest, good-faith injured person unconsciously presents a distorted factual situation, inaccurate, imprecise information (Ciopraga and Iacobuță, 258).

The definition of the witness is provided by article 114 of the Romanian Code of Criminal Procedure as "any person who is aware of facts or circumstances of fact that constitute evidence in the criminal case". By perceiving all the criminal activities from a tertiary position (the witness does not commit or commit a criminal act on him), the formation of a witness statement, including that which is perceived as corruption, goes through a psychological process structured in four stages: the reception of information, their logical processing, storing and reproducing information. Hearing a witness who has information about a corruption act can prove extremely useful, as based on the statements provided by it the truth can be discovered and the case finalized, of course if the witness is in good faith.

Flagrant. The specialized literature thinks in the sense that the most reliable and conclusive way to prove the corruption facts lies in finding the flagrant crime. The corruption offenses found in the Romanian Criminal Code, namely taking bribes, giving bribes, trafficking influence and buying influence, are consumed spontaneously, instantly, which makes it difficult to find them through the legal process of the flagrant. The evidence obtained from the application of the specific operations of the flagrant is useful for identifying both giving bribery and taking bribery, influence trafficking and buying influence, both sets of offenses claiming similar investigative tactics. The flagrant surprise does not aim primarily for finding corruption offenses, but to establish with certainty the receipt of

money and other patrimonial benefits, moment located after the consumption of corruption offenses (Moise and Stancu 2017, 206).

The team for detecting the flagrant crime is made up of specialized police officers and criminals who work in the field of recording and interception of communications, being coordinated by a prosecutor. To the extent that the information comes from special services, staff will be added to the team within these bodies. Each member of the team will receive precise assignments, depending on the material competence of each one, and in exceptional cases some members should not know the attributions of the others (Stancu and Ciobanu 2018, 269).

The on-the-spot investigation constitutes the essential forensic tactic with which the criminal investigation begins in the context of committing corruption offenses and those assimilated to them and which gives rise to new directions, orientations in the investigative activity to lead the judicial bodies to find the unique reality.

The Romanian Code of Criminal Procedure defines this activity in Article 192 which states that "the on-the-spot investigation is ordered by the criminal prosecution body, and during the trial by the court, when the direct finding is necessary in order to determine or clarify some circumstances of fact that are important for establishing the truth, as well as whenever there are suspicions regarding the death of a person". Therefore, this probation procedure can only be ordered after the commencement of criminal prosecution in the case of corruption. The role of this forensic tactic lies in the fact that it gives the investigative bodies the possibility to perceive directly the factual circumstances in which the perpetrator acted, the objects used by the perpetrator in committing the crime and the traces left at the scene. Typical traces of corruption are most often: money, currency, tangible assets, bank cards, receipts, accounting and registration documents; the personal accounts of the depositor, the invoices of the services provided, the checks (note) of payment, the transport tickets, the labels of the goods, their photographs, etc. Also, the typical traces can be represented by traces of hands on money, on objects received as bribes, of footwear, of cars, of special chemicals on the body and on the clothes of the corrupt person, traces formed under the action of contact with the object of the bribe (Gheorghiță 2016, 43). Among the ideal traces of the crime, the information received from the service colleagues of the corrupting, corrupt or intermediary person, from the members of their families, as well as from random witnesses, are important. This complex of indispensable activities contributes to the successful joining of the efforts of the criminal investigation bodies and to the approach to the purpose for which all the procedural acts are performed, namely the bringing to criminal liability of the person guilty of committing the crime.

Conclusions

The international structures, identifying the significant danger represented by corruption, both at the level of each Member State of the European Union and at the cross-border level, the intensity and the more frequent manifestations that go beyond the internal borders, have reacted accordingly, through the specific tools and the ways that they have. In connection with the forensic investigation of the phenomenon of corruption, viewed both individually and internationally, numerous criteria can be addressed that can give an overview on its proportion and major repercussions, as well as various solutions for identifying, investigating and the legal classification of each case, which expresses an intrinsic specificity.

The rapid evolution of the criminal phenomenon, in general, and organized crime in particular, has led contemporary society to realize that the traditional investigative means used by the judicial bodies were outdated and almost impractical. Therefore, other complex modalities have been adopted with the role of giving the state authorities a high level of control and new possibilities to suppress organized crime, even though, not infrequently, the use of such methods has aroused numerous controversies regarding compliance of human rights and fundamental freedoms.

The provisions of the old Romanian Criminal Procedure Code in this matter violated the foreseeability and accessibility requirements long recommended by the European Court of Human Rights through its jurisprudence as the special methods of supervision and research were disseminated in various normative acts, of different natures, so there was no legislative and systematic approach. The optics of the legislator have changed with the entry into force of the current Romanian Criminal Procedure Code, being inserted within the same chapter most of the special means to which the criminal investigation bodies can appeal in the efficient conduct of their investigation, being taken from the special laws.

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Judicial Discontents in Democracy: Interrogating the Contradictions

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ABSTRACT: The French judge and political philosopher, Charles-Louis de Secondat, Baron de La Brède et de Montesquieu, otherwise, simply known as Montesquieu, propounded the theory of separation of powers, currently implemented in many democracies across the world. Implicit in the terminology of separation of powers, is the desire for a seamless democracy or the type of democracy with minimal national bitterness. None of the three arms of government was ever envisaged to be a possible source of discontent in democracy. What then is to be done when one of these tripartite coequals (specifically the judiciary) becomes the source of discontent in an assumed democratic polity? This paper interrogates the embedded issues.

KEYWORDS: judiciary, judicial discontents, democracy, democratic regimes, Nigeria

Introduction

Despite all the attempts by different generations of scholars and lay-writers to achieve some academic and other empirical variations, the Lincolnian description of democracy remains unassailable – government of the people, by the people and for the people. This implies inclusive governance, which translates to minimal discontents, or at the height of inevitable contentions, amicable resolution of the surrounding issues, according to the wishes of the majority of the people. Conflict resolution is therefore expected to be among the operational procedures of democracy. The judiciary appears to be the preeminent conflict resolution body in all democratic polities. Can the judiciary also become a source of continuing conflicts (denoted as discontents in this paper) in a putative democracy? Such a scenario presents portraits of contradictions. The paper is situated within the national context of the Nigerian State in West Africa. In the structure of the presentation, there is an introduction of the study area (Nigeria), a précis on democracy, a digest on the role of the judiciary in Nigeria's electoral process, then instances of judiciary-induced discontents in the Nigerian democracy and finally, some prognosis on straightening out the embedded contradictions.

The Study Area (Nigeria)

The Nigerian state is in the West African sub-region of the world. It is in the continent of Africa. Nigeria was ruled by Great Britain from the mid-19th century up till 1960 when she obtained independence (Encyclopædia Britannica, 2020). But the Nigerian nationals that succeeded the British colonialists at independence were not particularly successful in governing the post-colonial Nigerian state. By 1966, the military arm of the newly independent state had toppled the government of the new state. The ensuing intertribal antagonisms which preceded the military putsch and also characterized the affairs of the different military administrations that followed also led to a civil war fought between 1967 and 1970. When the war ended, the military remained in power with civilian governance being permitted intermittently, while the military usually returned to oust the intermittent civilian regimes or topple an existing military regime. This represented the scenario in the country until 1999, which seems to have ushered in a regime of sustainable democracy in the country.

Among the subsisting epithets of the Nigerian nation is that of a crippled giant (Osaghae 1998). According to Osaghae, Nigeria is arguably one of the most complex countries in the world and belongs to the genre of the most troubled complex societies called deeply divided societies. It is a place rich in physical, natural and (debatably) human resources. Principally due to its comparatively humongous population, the country once prided itself as the giant of Africa. The country's population is currently estimated at over 200 million (Worldometer 2020). But this putative giant has only managed to remain a middle income country by all international standards. Its governmental system is presumably a democracy. But the brand of democracy in the country frequently throws up some worrisome tendencies, ranging from human rights abuses, to intractable terrorism (Ogundiya 2010; Idada & Uhunmwuangho 2012; Adenrele & Olugbenga 2014; Tella, Bello & Adejeumo 2018). In this trend of bothersome drifts has also been added what this paper studies as judicial discontents whereby the issues that heat up the democratic process in the country are the pronouncements of the judiciary.

A Précis on Democracy

The Lincolnian description of democracy (government of the people, by the people and for the people) remains a benchmark for democracy's definition but some amplifications have since been done (and such add-ons continue to be made) to reflect current realities, practice trends and hopes – scholarly and empirical hopes. Dalton, Shin & Jou (2007) accordingly identified three alternative approaches to the definition of democracy - procedures/institutions, freedom and liberties, and social approaches. Consequently, under the procedures/institutions approach, Dahl (1971) identified eight criteria in defining democracy:

- the right to vote
- the right to be elected
- the right of political leaders to compete for support and votes
- elections that are free and fair
- freedom of association
- freedom of expression
- alternative sources of information
- the existence of institutions that depend on votes and other expressions of preference.

Dahl thus, largely equates democracy with the institutions and processes of democratic government. Theorists and activists that belong to this institutional/procedural school of thought therefore believe that if citizens can participate equally in free and fair elections, and if such free and fair elections direct the actions of government, then democracy is on course. Robust electoral institutions would then constitute the defining elements of democracy or minimum measures of a democratic system. Under this scenario, free and fair elections, responsiveness of government, multiparty competition, and popular control or majority rule, become key elements in defining democracy (Dalton, Shin & Jou 2007).

The second approach is to focus on the outcomes of democracy. It is therefore partly implicit in much of the democratic theory that electoral democracy presumes the existence of freedom of speech, assembly and other rights essential to make electoral competition meaningful. Hence, democracy includes an emphasis on freedom and liberty as its essential goals, with the institutions of democracy a way to achieve these goals (Dalton, Shin & Jou 2007). Citing Diamond (1999), Dalton, Shin & Jou (2007) list political liberties, participation rights of citizens, equal justice before the law, and equal rights for women as four of the core democratic values. Democracy might then be defined in terms of the individual rights and liberties protected by a democratic form of government, such as freedom of speech, religion, and freedom of assembly.

The protection of individual liberty and rights by the rule of law thus become essential to democracy (Dalton, Shin & Jou 2007).

Then thirdly, there may be a social dimension to the public images of democracy, particularly in developing nations. Therefore, in addition to civil and political rights, democracy should include social rights, such as social services, providing for those in need, and ensuring the general welfare of others. And so, unless individuals have sufficient resources to meet their basic social needs, democratic principles of political equality and participation are meaningless to such persons, unless democratic freedom includes freedom from wants. And in these regards, contemporary expressions of support for democracy in developing nations are merely expressions of support for a higher standard of living, as democracy is identified with the affluent, advanced industrial societies. The endorsement of democracy in these developing countries is presumed to mean a desire to achieve the same economic standards even if not necessarily the same political standards (Dalton, Shin & Jou 2007). Where then is the role of the judiciary in all of this?

The role of the judiciary in Nigeria's electoral process

The operative 1999 constitution of Nigeria provides for a judiciary in Section Six. And the powers of the judiciary on all adjudications in the country derive from this source. The issues to be adjudicated upon, as provided for in this section, both expressly and impliedly extend to election matters. Additionally in Part III of this section of the Constitution, there are provisions for Election Tribunals, with well spelt out functions. Sections VIII and IX of the nation's Electoral Act 2010 (particularly Sections VIII) also amply recognize the judiciary as partners and actors in the electoral process. But how has the judiciary fared in the discharge of its duties?

Instances of judiciary-induced discontents in the Nigerian democracy

During Nigeria's ill-fated Second Republic (October 1, 1979 - December 31, 1983) there was the extremely divisive case of Chief Obafemi Awolowo Vs Alhaji Shehu Shagari, in 1979. The gravamen of the case was that Shehu Shagari did not obtain the required 25 percent of votes cast in 2/3 of Nigeria's then 19 states which could only translate to his obtaining 25 percent of votes cast in 13 of the states. Nigeria's Apex Court in deciding the law relating to election cases in the country had by a majority of 6-1, affirmed the election of Alhaji Shagari as duly elected President. The Learned Justices of the nation's Supreme Court held that two-third of the country's 19 states was 12 2/3 states instead of 13 (HLF 2014).

The Supreme Court agreed that Shehu Shagari got 25% of the votes cast in twelve (12) states but the 13th state was the issue. It was Kano state, where Shagari scored 243,423 votes, equivalent to 19.4% of the 1,220,763 votes cast in total. But in arriving at its position the Apex Court divided the 1,220,763 total votes cast in Kano by two-thirds to arrive at 813, 842, and then declared that Shagari's own votes of 243,423 in Kano was greater than 25% of the total votes cast in Kano. The day this judgment was delivered has been described as the day the law died in Nigeria (Awofeso 2013). But Adediran (1982) described it as a case of compromise between law and political expediency.

An eminent professor of law in one of Nigeria's oldest universities has since summarized the relationship between law and politics in Nigeria as political jaywalking and legal jiggery-pokery, in the governance of Nigeria, wondering: Wherein lies the rule of law (Amadi 2011)? According to Amadi, "all in all, the political jaywalker is that person whose mental state readily accommodates such flawed tendencies as deceitfulness, selfishness and shamelessness in pursuit of politics and politicking, in contempt of the rule of law." Then legal jiggery-pokery is the deliberate employment of deceit or dishonesty by lawyers, whether as legal practitioners or judges, in the interpretation of the law, or law makers making bad and or self-serving laws (Amadi 2011, 15).

In the case of Omehia Vs Amaechi (2007) Celestine Omehia was sworn in as the fourth Governor of Nigeria's Rivers State on 29th May 2007. But on 25 October 2007, the country's

Supreme Court annulled Omehia's election, on the grounds that Chibuike Amaechi, not Omehia, was the political party's legitimate candidate. Amaechi had won the party primaries, but became substituted with Omehia at the last moment due to allegations of graft (BBC 2007). Amaechi did not campaign in the elections, his name was not on the ballot paper but he was declared winner of the election by the highest court in the land, which held that the votes of the voters were for the political party, not for candidates (Adejumobi & Kehinde 2007).

But we move ahead in acceleration, and arrive at 2020, in the case of Hope Uzodimma Vs. Emeka Ihedioha. In this case, a seven-member panel of Justices of the country's Supreme Court presided by the Chief Justice of Nigeria (CJN) held that Ihedioha was not validly elected as governor of the country's Imo State, by majority of lawful votes cast in the election. The Supreme Court accordingly sacked Ihedioha who had been in office for about seven months. The Apex Court held that Uzodimma proved the allegation of exclusion of results in 388 polling units of the state where he scored 213, 695 votes. The court upheld the argument of counsel to Uzodimma, that the issue was whether their results were unlawfully excluded from the total results, and not whether elections held in the controversial polling units (Azu, Matazu, Olaniyi, Jimoh & Owuamanam 2020). Amidst public protests and street demonstrations on opposing sides of the political divide in the state, Ihedioha headed back to the Supreme Court, the court of ultimate jurisdiction, which of course lacks appellate status. The Uzodimma Vs Ihedioha struggle became a subject of immense national discontents in the country's democracy.

Ihedioha went back to the Supreme Court to argue that when Uzodimma initially presented his table of exhibits, to the Apex Court Justices, he mischievously excluded the votes of other political parties that contested the election and on the bases of his own exhibits alone the court declared him winner. He submitted that an error was discovered in the judgment of the Supreme Court as the total number of votes cast in the election now exceeded that of accreditation by over 100,000 after adding Uzodimma's new votes. The Ihedioha side argued that Uzodinma was granted the request he did not pray for, as he prayed for fresh election in 388 polling units, but got the imposition on the people as Governor by the Supreme Court. The Supreme Court viewed the new application as an invitation to sit on appeal over its own final judgment. It concluded that granting the request would open a floodgate by other parties for all kinds of appellate litigations against Supreme Court judgments and then decided as follows:

> The general law is that the court has no power under any provision to order a review of its own judgment unless to correct an error. This court has on each occasion stated that it lacks jurisdiction to do that. We cannot sit as an appeal court. We have no hearing power in respect of the matter. The court does not have the competence and lacks the jurisdiction to review its own judgment. The finality of the Supreme Court is inherent in the constitution. To ask us to set it aside means an appeal for us to sit on our own decision, which we have no jurisdiction over. The application is hereby dismissed and parties are to bear their respective costs (Onochie, et al. 2020).

Correcting the contradictions

As the discontents arising from the Uzodimma Vs Ihedioha case and others subsist, a major contentious issue (a contradiction) borders on the beneficial role of the judiciary (or otherwise) in the electoral process. The judiciary currently plays a dominant role in Nigeria's democracy. It appears as if the role of the political parties on matters of their candidates for elections is being taken over by the law courts in Nigeria. The prime position of the voter in deciding who governs is increasingly eroded while the political parties perform poorly in their choice-of-candidates roles. Instances are many on the choice of candidates being determined by the courts, adjudicating on litigations (Banire 2017). The nation's political parties lack clear ideological commitments, do not articulate alternative worldviews, rarely mobilize the voters, and usually adopt anti-democratic methods to confront their intraparty democratic issues (Adejumobi & Kehinde 2007). The political parties and their candidates seem to be engaging in too frequent resort to the law courts in electoral matters, leading to

contentious judicial pronouncements and judiciary-caused discontents in democracy in the country. When judicial pronouncements are contentiously made in continuity (with inherent finality) in a democracy, they inevitably breed discontents. Chairman of the nation's electoral commission recently advised political parties not to allow the courts determine the outcome of future elections in the country **(**Channels Television 2020**).**

In an overall context, the judiciary serves as the final arbiter in a democracy, over all disagreements and disputations, which include disagreements over elections, nomination of candidates by political parties and election results. But the assumption is that the arbitration of the judiciary would always, be nearly unassailable if not completely incontrovertible. The right to choose their leaders in a democracy fundamentally belongs to the voters. The seeming usurpation of this right (the taking over of this right) by the judiciary is certainly contradictory. At what point and under what circumstances then, may the judiciary validly take over the voters' rights of declaring with finality, who governs? On the face of it, it seems the judiciary may do so as arbiter in litigations and when members of the judiciary serve as judges, in disputed processes of the election and contested election results. On deeper contemplation however, it appears as if it is only when the decisions of the judiciary over such matters are unassailable that such interventions may be tolerated. In correcting the implicit contradictions of judicial discontents in a democracy, judgments of a national judiciary, particularly at the Supreme Court level is expected to be incontestable.

Conclusions

Tenuous judicial pronouncements in the process of democracy are undesirable. A high frequency of these contentious adjudications is also unacceptable. When such tendencies become frequent, they lead to what we have examined in this paper as judicial discontents in democracy. Such scenarios erode confidence in the judiciary as final arbiter. Where the judiciary was previously assumed to be the last hope of the proverbial common man, this erosion of confidence may make this same commoner to lose hope in the prospects of democracy.

What is to be done? This requires a reversal of the trend of making the judiciary (the Supreme Court of the land) a usual and frequent participant in election matters. But it is up to a nation's political elite to make this vision a reality, to allow the votes of the masses count in an election. The role of the political parties is central in these regards. Currently obtainable in the Nigerian setting is the situation whereby the politicians increasingly overstretch the electoral contests to the highest court in the land, while the political parties participate helplessly in taking the electoral contests to the courts for judicial decisions. This appears to give the political class the room to manipulate the process, even at the highest judicial level. This scenario continues to give the Nigerian democracy some colouration of judicial discontents and carves a portrait of awkward democracy for the country.

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Particularities on Child-Friendly Justice Concerning Inoperability of Judicial Procedures

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ABSTRACT: If the purpose of applying a punishment to a felon is firstly retributive, then restorative, when it comes to a child perpetrator, the primary concern to specialists in the legal, psychological and social assistance field must be the effective protection and social reintegration of the minor. The courts for minors are meant to be able to determine the needs of every child who falls under the law, regardless of its quality (perpetrator, victim, witness, collateral victim). Creating a child-friendly justice system gives the child a safe and ideal space where all his rights are respected and his voice is heard, regardless of age, maturity or social status, benefiting from social and legal assistance for the entire duration, prior, incipient and subsequent to a judicial procedure in which the child takes part. In general, court proceedings may be delayed due to certain intervening factors that may have a negative impact on the parties, which is in contradiction with the act of justice. In this context, we point out that the delays in the court proceedings involving children brings with them the victimization and traumatization of the child. Finally, institutional actors have a duty to keep away a child from the rigid and traumatic side of applying justice and transforming it into child-friendly justice.

KEYWORDS: child, victim, juvenile justice, child-friendly justice, human rights

Introduction

Children come into contact with the justice system in different contexts, ranging from family issues, adoption or divorce, administrative issues related to nationality or immigration, to committing antisocial acts in which the child is the perpetrator or victim. At the time of effective confrontation of a child with the justice system, they may undergo a re-victimization, so it is necessary that the operation of the justice system be adapted to their interests and needs (Council of Europe 2010, 7). We opted for the term of *justice for children*, considering that this expression is different from *juvenile justice*, the latter concept referring only to children in conflict with the criminal law, while the former takes into account an overview, including and child victims or witnesses.

In addition to the implementation of legislative acts that contain protective norms for the child's rights, it is necessary to develop the skills of practitioners such as policemen, lawyers, prosecutors, judges (PRI 2013, 15) who work in the justice field, at the moment of contact with a minor, whose main objective should be to approach the child as a friend throughout his experience with the system, before and after, turning it into a *child-friendly justice* (EU FRA 2016, 146).

The purpose of this paper is to promote the best interests of the child, along with other principles that every child should enjoy and also it bends to what it means to implement child-friendly justice, in particular, how it should be accessible, age adapted and appropriate to the needs and rights of a child (EU FRA 2017, 13), being applied promptly and without delaying the procedures related to the execution of justice (Council of Europe 2010, 17).

The normative framework that protects the rights of the child in his interaction with justice can be implemented effectively, as long as it is considered primarily to protect the child from the rigid field of law by approaching a friendly attitude and creating a protective space for him. Also, at EU level there are various legislative acts, directives, conventions that encourage Member States to create a justice system adapted to the children's interests.

In addition to the need not to traumatize a child by applying rigid judicial procedures, it is of most importance also their effective participation in these procedures, considering that the professionals involved must adopt a certain behavior, show empathy and understanding to what a

child really needs in order to feel safe. Only when they feel respected and gain trust in these specialists, the children are able to express their opinions freely and to effectively participate in the procedures (EU FRA 2016, 25).

European and national legal framework on child-justice

All Member States of the European Union have an obligation to ensure that the best interests of the child are considered a priority in any action that concerns them. This priority becomes especially important when children are involved in civil and criminal court proceedings.

The way children are treated in court proceedings is an important human rights issue, which was promoted by the United Nations in the Convention on the Rights of the Child (UNCRC) document ratified by all EU Member States (EU FRA 2015, 3).

Addressing issues concerning children is an important aspect in terms of respect for human rights, which has been taken over by the UN by transposing it into the *Convention on the Rights of the Child* (Law no. 18/1990) ratified by all EU Member States. The convention is built on a series of principles that mainly refer to *human dignity* (Arts. 39 and 40 para. 2 letter b) of the UNCRC), *prohibition of torture and inhuman or degrading treatment* (Art. 37 of the UNCRC), *the right to freedom and security; respect for private and family life* (Art. 8 of the UNCRC), *protection of personal data*; *non-discrimination* (Art. 2 of the UNCRC), *the right to an effective remedy*.

European Commission representatives conducted a study on the involvement of children in civil, administrative and criminal proceedings in all Member States of the EU (European Comission, 2015). With the support of the European Commission, it was possible to implement directives and communications of the Council and the European Parliament (Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime; Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings).

The European Commission prioritised child-friendly justice in its EU *Agenda for the Rights of the Child*. Among other efforts, it committed itself to promoting the Council of Europe's Guidelines on child-friendly justice, which focus on children's rights to be heard, to be informed, to be protected and safe (EU FRA 2017, 3).

The EU Agency for Fundamental Rights (FRA) has collected and analysed data to determine to what extent these rights are fulfilled in practice. It did so by way of interviews with professionals and children who have been involved in judicial proceedings (Art. 25 of the Directive 2012/29/EU). FRA's first report on its research centred on the perspective of professionals (EU FRA 2017, 10).

European Court of Human Rights jurisprudence shows the importance of having effective judicial procedures when children are involved (EU FRA 2016, 146). In a claim for the return of children to Norway under the International Child Abduction Convention, the ECHR emphasised the critical and major importance of the passage of time in these types of proceedings (ECHR 2015, para. 28). The Committee of Ministers of the Council of Europe issued a recommendation offering practical guidance to states on the lenghth of proceedings in terms of redressing the manner specialists act when children are involved (Committee of Ministers 2010).

Treaty on European Union (TEU), The Charter of Fundamental Rights of the European Union (EU), UE regulations and directives, jurisprudence of the Court of Justice of the EU (CJEU), Conventions issued by Council of Europe, European Convention on Human Rights and the European Social Charter, jurisprudence of the European Court of Human Rights (ECHR), decisions of the European Committee of Social Rights (ECSR) these are legal standards that promote the fact that children are full-fledged holders of rights (EU FRA 2015, 3).

In Romania we find legal provisions regarding the minority in the regulation of the Penal Code (Law no. 286/2009), Title V - The general Criminal Code part, articles 113-114, also in the Code of Penal Procedure (Law no. 135/2010), Title V articles 243-244 and in the The Special

Part of the Code of Penal Procedure found in Title V articles 504-520, in the content of Law no. 272/2004 on the protection and promotion of the rights of the child, law transposing into national regulation the UN Convention on the Rights of the Child.

Child-friendly justice - best interest of the child

Child Friendly Justice means better support from adults so that young people understand different laws and how to challenge them if they are not happy with how they are treated (Stalford, Cairns, Marshall 2017, 222).

As for a child, the state should act as *parens patriae*, not as a foe (ECHR 2016, para. 218). For example, redeeming important rights of a child that revolve around criminal matters, prevails over civil matters, so that a court cannot rely on a question of opportunity to include a case involving a child that belongs to civil matters and to exclude the criminal sphere, thus violating the right of the child to be able to express his opinions (Supreme Court of the USA 1966).

Furthermore, we reason with the idea that the origin of the legislation regarding specialized courts for minors, has its roots in the philosophy of social protection rather than in the *corpus iuris*, the courts having in particular the purpose of adopting measures of assistance and reintegration of the child into society, rather than to establish the prevailing of criminal liability. In principle, specialized courts for minors have a duty to determine the needs and interests of the child and the society rather than to judge criminal behavior (Art. 40 para. 1 of the UNCRC).

No doubt that in Europe there are a variety of rules and practices in the field of child-friendly justice, which Member States must implement in national law, but their application must take into account a broad spectrum, which includes all children who interact with the justice system, regardless of their status, whether victim, witness or perpetrator (Arts. 18-23 of the Directive 2012/29/EU), either with its own specific needs (SCM of Romania 2013, 124). In support of this idea, a *sine qua non* condition for taking steps towards child-friendly justice is for legal professionals to have professional training, to raise their awareness on the needs of vulnerable victims and to allow them to treat children in contact with the law in a respectful, impartial and professional manner (Art. 25 of the Directive 2012/29/EU).

Guidelines of Council of Europe Committee of Ministers promote policies that take into account the age, maturity (Art. 12 of the UNCRC), opinions, needs and concerns of a child involved in a judicial procedure. For example, the right of the child to be heard is paramount in such procedures (UNICEF 2018, 21), however repeated hearings can produce him trauma, reaching right up to re-victimization. Therefore, the policies developed must take into account the particularities of the case and impose a number of hearings in accordance with each child's personality. Video and audio recording is a sustainable solution to avoid repetition of hearings and to guarantee the admissibility of testimonies as conclusive evidence for the effective settlement of the case (EU FRA 2012, 50).

The legislative frameworks, usually have a high degree of generality, in all areas of law, so that specialists have to customize the applicability of the legislative norms according to the subject of law, and this is achieved through a multidisciplinary approach of the cases in which a child is involved. It is necessary the presence of both legal and social workers specialists, even psychologists and doctors. The latter can inform the child about his / her rights before, during and after a judicial procedure, in a language of their understanding (EU FRA 2012, 50).

It was stated that the legal system is dysfunctional due to the lack of collaboration between the services that come in to support a child involved in a judicial procedure. Correctional, mental health, welfare and education systems have difficulties in collaborating in these types of cases and if it is desired to implement an effective proceduralism, which responds to the individual needs of a minor, it is essential that the practice be inspired by sociological research and by training of specialists who elaborate or apply laws regarding children (Hill, Lockyer, Stone 2007, 80).

Child-friendly studies have concluded that children want to be heard when participating in court proceedings, but that they need to feel safe and comfortable, so everyone involved should contribute to creating safe and friendly hearing conditions in order to facilitates the children's participation. This includes hearing children in separate special equipped rooms, use of video recordings as evidence, having only one trained professional hearing the child, avoiding having too many people present, have a trusted person accompany the child, informing and appropriately asking the child about the procedural safeguards and verifying the child's understanding of the rights and procedures (EU FRA 2018, 6).

Judicial procedures deficiencies in promoting the best interest of the child

The rigor of applying judicial procedures prior to the beginning of the criminal trial, thus understanding the activity of the criminal investigator, prosecutors, forensic experts, can create the minor a re-victimization if the physical examination is performed invasively, relevant examples constituting taking of evidence from the human body for the investigation of main biological traces or even judicial photography (Turvey, Petherick 2009, 130).

During judicial proceedings in cases involving minors, the best interests of the child must be protected, taking into account the degree of maturity, the emotional and intellectual capacities, encouraging its effective participation (UNCRC, articles 9 and 12), precisely in terms of guaranteeing compliance with this principle (ECHR 2010, para. 80). If a legal provision is open to more than one interpretation, the construction which most effectively serves the child's best interests should be chosen (Art. 41 of the UNCRC).

In addition to the fact that the courts are obliged to provide the child in conflict with the criminal law, free legal assistance, it must be kept in mind that a lawyer is required to inform him about his rights throughout his contact with the law (Zermatten 2008, 100), even from the first police inquiry (ECHR 2008, para. 62). In light of this idea, as long as the juvenile is in police custody to file a statement, he must be accompanied by one of the parents, legal guardian or social worker and when the situation imposes, even by a doctor (Council of Europe 2003, para. 15).

In a study carried out by FRA regarding the experiences and perspectives of children in judicial proceedings, we can extract from their testimonies the fact that there is a lack of communication skills from the judges when they hear a child, thus resulting in deficiencies in the effective cooperation of minors (EU FRA 2017, 48). In civil cases, when a child is brought to court as a witness or when the case directly concerns him, the court hearing must be closed, but from the children testimonies, it appears that this aspect is not respected by all courts, so that at the time of the hearing, foreign persons, irrelevant to the case, are present in the courtroom (EU FRA 2017, 54), in this situation the hearing is shortened and the child is not given the time and space needed to express himself in an unrestrained way. The increase on the lack of protection and the appearance of fear can occur when the minor victim meets the accused party, being followed by the inappropriate behavior of the practitioners and the intimidating environment in which the minors are located (European Commission 2014, 15).

Non-discrimination can come from the judges' idea that the opinion of a child is not important or cannot be a conclusive means of proof, thus leaving the child with the impression that they do not matter. For example, when the child's parents or siblings are present in the courtroom, the judge asks questions only to them, and the presence of the minor is not taken into account (Unicef 2010, para. 9). Of course, discrimination can also come from the stigmatization of the child based on race, religion ethnicity, health or financial condition.

Conclusions

We promote the idea that the right of the child to enjoy a special treatment that is in accordance with his needs and concerns should not be proven or negotiated, therefore we must take steps towards an

effective implementation of such rights, which should be rather of intervention, of concretization of results obtained from studies, specialized research, legislative frameworks and good practices. The existence of specialized courts for minors in the Member States but also outside the EU area remains a problem that does not seem to have a concrete solution. We consider that the basis of respecting the best interests of the child is the creation of a space in which, unequivocally, the protection of all his rights should be a priority, even before the court's ruggedness.

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Responding to Urban Violence Via Human Rights Approach to Urbanization

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ABSTRACT: The concept of urbanization in global development is a new approach which is currently sweeping through developing countries (Nigeria, Ghana, Mali) like a wild fire. However, with the huge efforts and speed at which urbanization is being pursued, many governments of these countries appear overwhelmed and unable to cope with its challenges as they are not able to provide enough basic infrastructures and services for the growth urban population. Nigeria is one of the countries struggling to cope with the challenges of urbanization especially in the areas of security of lives and property. The desire to write this article was motivated by the current inadequacy in urban policy implementation in relation to security in Nigeria. Relevant literature and archival retrieval of historical documents were reviewed. This article discussed important features of urbanization challenges in Nigeria like: rapid population growth and changing demographic structure; poverty and unemployment; difficulties in accessing housing delivery inputs; and lack of adequate capacity on the part of government. Finally, it examined the implications of these challenges in relation to the issue of insecurity in urban areas and maintained that urban policies in developing cities if properly implemented and managed should bring about a reduction of the lingering and persistent insecurity challenges and promote economic and social development.

KEYWORDS: urbanization, violence, government policies, human rights, development

Introduction: The Concept of Urbanization

According to Friedman (2018) urbanization is when large population of a country decides to move into smaller cities and towns in search of social amenities and industrialization for improved living conditions. This happens when people move from rural farmland to cities and towns and most developing countries experience it especially once they start becoming industrialized as cities and towns become hubs of trade and culture, and more people start moving out of the countryside to gain access to some of these social and financial benefits. Consequently, urbanization is a natural part of developing societies.

It is important to know that as long as a country is moving towards industrialization, urbanization is inevitable as people want to move away from agriculture and begin to seek better access to employment and resources in the cities. Even though this movement toward the cities will affect agricultural growth and development, there are other benefits that propel the people and they serve as the factors contributing to urbanization, and fortunately, many of them are positive. For example, search for best opportunities to provide improved living conditions for themselves and their families, and fortunately, urban environments are often the answer as there are increased employment opportunities. There are more jobs in urban areas and these lure people out of rural areas with the promise of a better life and a higher-paying salary as there are more jobs in virtually every industry in the cities and towns than in the rural areas.

Other opportunities that serve as incentives for the people to move away from rural communities to flock to cities and towns include access to better schools, healthcare facilities, better living standards, and increased trading transactions. There is a long list of social benefits associated with moving to urban environments as they can start families and offer their family members access to better living conditions.

Another attraction to the city is modernization. City people are more modern than rural dwellers, and they are attracted to the fashion, food, and ideas flowing in the city. People often move to cities for a fresh start as they learn more about culture and experience the hustle and

bustle of daily city life, thereby making it very attractive, even though their experiences might eventually be disappointing.

One disadvantage of many people moving from rural areas to urban areas is over crowdedness of the cities. With the promise of greater opportunities, more rural residents move there and too many people pack themselves into small spaces, and gradually, they begin to face unemployment and crime rate begins to rise. Accommodation becomes an issue when cities and towns experience overcrowding leading to rent increase which is fantastic for landlords but devastating for tenants. Another effect of overcrowding of urban areas is unemployment as more people are chasing the few available jobs as they need to earn income to keep up with the rising cost-of-living. Gradually, as more people become unemployed or underemployed, the quality of job is no longer considered as people just need jobs to meet up with the cost of living. With rents getting so expensive, people will begin to move to slums and ghettos begin to develop. Also, as the demand for education and social services increase, it puts more strain on them making poverty to increase. The increase in poverty makes feeding difficult thereby forcing people to go into crime to make ends meet and drug use is inevitable. Although, it is important to note that crime is not solely the problem of urban environments, but it's certainly more common there.

Overview of Urban Insecurity Challenges

Urban violence and insecurities have a long history which can be traced to the Industrial Revolution in Great Britain (McMichael 2000; Engelke 2012) as they argue that the economic competition to survive in the cities is closely associated with crime and violence purported by the unemployed and Szreter (1997) further argue that with the increased crime and violence, the attention of urban planners must be required (Nyabvedzi and Chirisa 2012; Brennan 1999). According to UN-Habitat (2007) between 1980 and 2000, crimes increased from 2300 to 3000 crimes for every 100 000 people in Africa, Latin America, Eastern Europe and the Caribbean recorded an increase in crime rates whereas North America and Western Europe recorded a decrease in crime rates. Also, Friel et al. (2011) reported that there is an increase of crime by 60% among urban dwellers in developing and transitional countries. But more frighten is the increase in proliferation of terrorism in some cities in the world, notably in cities in Africa due to the operation of terrorist groups such as al-Shabaab and Boko Haram (Cole and McQuinn 2015; Pate et al. 2015; Ibrahim 2010).

The Arab Spring of North Africa has resulted into insecurity in the region causing violent conflict and political disorder characterized by criminal networks that include drug trafficking and human smuggling/slavery (Gartenstein-Ross et al. 2015). Events on 11 September 2001 in USA are still fresh on our minds. Europe is not left out as on 13 November 2015 gunmen and suicide bombers almost simultaneously hit concert hall, a major stadium, restaurants and bars in Paris, France resulting in the death of 130 people while many others were left wounded (BBC News 2015). Brussels transport hub too was attacked Brussels on 22 March 2016 and Brussels Zaventem airport was bombed resulting in the death of 32 people and over 100 more wounded (John et al. 2016).

The implications of these examples are that crime and violence affect the functionality of urban areas more severely therefore, the planning, designing and management of urban areas need to consider urban safety and the consequences of insecurity. Scholars (The World Bank 2011; Jutternsonke et al. 2009) have argued that in today's world, lack of security in most urban areas is identified as a key social problem, as it arrests city development and productivity of the local economy of urban areas. Urban insecurity causes intense urban chaos, which culminates to instability and civil unrest in urban areas.

Theoretical Framework

The theory that guided this study is the Frustration–Aggression Theory, was proposed by John Dollard, Neal Miller Leonard Doob, Orval Mower and Robert Sears in 1939, and further developed

by Neal Miller in 1941 and Leonard Berkowitz in 1969. The theory says that aggression is the result of blocking, or frustrating, a person's efforts to attain a goal (Frustration-Aggression Theory: Definition & Principle, 2017).

When the theory was first formulated, it stated that frustration always precedes aggression, and aggression is the sure consequence of frustration, however, two years later, however, Miller and Sears re-formulated it to suggest that while frustration creates a need to respond, some form of aggression is one possible outcome. Therefore, the re-formulated format argued that while frustration prompts a behavior that may or may not be aggressive, any aggressive behavior is the result of frustration, making frustration not enough, but a necessary condition for aggression. This theory explains the causes of urban violence as the rural dwellers who left their communities with high hope and plans for a decent city life was dashed and this disappointment made them angry, frustrated and aggressive leading them into illegal activities in order to survive therefore making the cities unsafe or insecure.

The Concept of Urban Development Based on Human Rights Perspectives

> Urbanization can only be a force for positive transformation if it respects and promotes human rights (UN Human Rights)
>
> Urban governance on the basis of human rights can help to set up problem solving mechanisms to guarantee social peace, economic growth and political participation. (Mihr 2010, 1)
>
> People whose basic human rights are denied or abridged will at some stage stand up, protest and even act violently against whatever political system denies their rights. Because urbanization and the growth of megacities is more common in less democratic countries, human rights are more likely to be abused or violated than in more democratic countries. Thus, if governments make concessions and urban dwellers claim their rights, the respect, promotion and claim of these human rights could be seen a tool for conflict resolution. (Mihr 2010, 9)

From the above statements, it is very obvious that urbanization programs that do not factor in the principles of human rights protection and promotion will definitely lead to violence. These quotations have shown that there is a close relationship between human rights protection and peace and human violation and conflict. In developing sustainable urbanization that promotes peace, the experts must encourage free, active and meaningful participation of all stakeholders, especially the vulnerable group because urbanization done *with* and *for* all users with a priority to protect and improve the living conditions of the most vulnerable will be most effective. When people are carried along in any form of development, their priorities are factored in and they have a sense of ownership and therefore, can be sustainable.

The executors of the urbanization plan must be held accountable in the execution of their assignments and make sure that the rights of the people are respected and promoted because these rights are inherent, meaning that it is permanent or inseparable part of human. Another characteristic of human rights is dignity, which means that humans must feel respected and worthy as human rights are designed to support and sustain the dignity of individuals, including self-confidence and finally inalienable, meaning that they cannot be removed, surrendered, or transferred, bought, sold, or negotiated even if considered a burden, inalienable rights are always in existence. When urbanization is conceived with these principles in mind, then they will respect the inhabitants both at the planning and implement stages of that development. Right-based development can cause violence to reduce if not eliminated as they will include free and fair dispute and complaint mechanisms.

The principle of peaceful co-existence of all urban dwellers must guide urbanization. This principle is important because it helps in urban development activities of the stakeholders to embrace strategies for the political, social and economic empowerment. For the city dwellers to be socio-economically and politically empowered, their fundamental rights and freedoms must be upheld. Promoting freedom of speech and assembly, the right to information, consultation and participation in decision-making processes, and the right to vote, among others is a must if peaceful co-existence is to be achieved. Urban violence is caused by the absence of socio-economic opportunities which can be addressed at the planning level and be followed through to implementation.

Resolving Urban Violence based on Rights Approach to Development

In order to resolve urban violence, it is not just policing the streets and incarcerating people for offences alleged to have been committed which is what the criminal justice system is doing. No, efforts should be made to address the root causes of the problem by looking at the problem of rights violations and discrimination meted against the people. These violations should be addressed not only on the basis of gender and geography, but also on the basis of race, culture, religion, age, disability and social and economic status, because too often the voices of the poor, people living in slums and informal settlements, women, children, minorities, migrants, refugees, indigenous peoples, persons with disabilities, older persons and others, are not heard in urban development processes, resulting in development that further marginalizes and discriminates against those most in need.

Building better cities that can help reduce over crowdedness can be a violence reduction strategy. When a large number of people live in a small space, automatically, these cities become unhealthy for their residents' due pollution of all sorts, then these cities become unsafe. These unhealthy cities become a breeding ground for violence and insecurity. In an effort to reduce the effects of crowdedness in the urban areas, is to build cities with the environment in mind and can work for everyone.

Urbanization experts should consider the use renewable energy, water recycling, and green travel in planning the cities to the benefit of all. Also, local administrators should consider the future needs of the cities, especially population growth and demographic changes so that the city dwellers can thrive in the nearest future. Apart from the physical planning of the cities to prevent overpopulation or over crowdedness because it exacerbates the already existing problems, fighting overpopulation starts with education, so providing more educational resources is one of the best ways to combat excessive urbanization. Family planning education resources are very important as they help to check overpopulation problem, and the other forms of insecurity that come from unwanted pregnancy and drug abuse leading to violent life style.

Opportunities for better life (access to better schools and health care) are the reasons people move to cities and towns as with upward mobility they're no longer stuck in the social class in which they were born. The demand and supply of job opportunities and labor must match so that companies can hire more people to work for them. The implication of these economic activities is that the surrounding area benefits as property value rises, and people can move up the social ladder. Creating more jobs and opportunities as the population rises helps in keeping city residents comfortable and this is essential for sustainable and safer urban environments. It is important to know that there is a relationship between restlessness/discomfort and crime development, so, creating socio-economic opportunities is a violence reduction strategy.

Advantages and Disadvantages of Right-Based Development

Morten Broberg & Hans-Otto Sano (2018) recorded that the view that dominates the argument of the advocates of human rights-based approach to urbanization is the approach that ensures that the weakest citizens have access to essential services such as health care, water, sanitation and education. However, the group they are advocating for is the migrants who are often placed in very weak

positions with regard to such services because they know that even though it is the States' responsibility to eliminate discrimination against migrants, most times, they are not careful to do so.
Another reason these advocates push for right-based urbanization is that it is suitable for strengthening the concept of citizenship. According to them, the marginalised or vulnerable groups in different parts of the world are entitled to their rights and therefore, the advocates are demanding the strengthening of the channels by which they can assert these rights.

The third reason is that it provides a natural focus on the use of legal mechanisms in development assistance and development policy in general which ensures that individuals or groups are given legal means to help improve their conditions as they are now aware that they have rights that can be enforced. Also studies have shown that developing countries that are in transition from dictatorships to democracies are likely to comply with international obligations not to commit human rights violations because they know someone is watching and finally more widespread campaigns for a human rights-based approach can contribute to promoting legislation that benefits the poor or groups that are discriminated against as bilateral donors, NGOs can easily get into political discussions in those states.

Just like everything that has an advantage has a disadvantage, human right based development of urbanization has limitations. This approach to development must be carefully studied to know if it is relevant to the situation or even the program and therefore, must be strategic. For example, one of the challenges of human right based development is that it can make development debates and actions more political causing more harm than good.

Action, it can be counter-productive. For example, the battle could lead to inequalities and conflicts between different groups in society, and possibly even leading to the favoring of some groups in preference to others; also, it can promote non-sustainable use of natural resources, where one group obtains control over natural resources at the expense of one or more other groups; and finally, it can promote inappropriate governance, because the grant of rights can also be used to secure (increased) power to certain groups at the expense of other (less politically strong) groups.

Conclusion

In conclusion, it is important to know that human rights-based urbanization is beneficial in advancing and developing a sustainable and socially inclusive urbanization. Right-based approach promotes equality, combats discrimination in all its forms and empowers stakeholders and communities. Therefore, in managing urban violence, it is compulsory for urban developers to factor in the principles human rights that are universal and relevant to all human beings no matter where one is living. Human rights approach to urbanization makes it possible for developers to build cities that work for people creating places of equal opportunity for all, where people can live in security, peace and dignity without violence.

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Interaction Effect of Dual N-back Working Memory Training and Anxiety Levels on L2 Writing Performance

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ABSTRACT: Burgeoning interest in the role of working memory (WM) in most cognitive endeavors has led to an increase in WM training programs. Within the field second language (L2) writing, however, WM improvement interventions are scarce, and even scarcer is research into how other variables interact WM in their effect on performance. Hence, this study examines how anxiety, often believed to be a significant impediment for both WM and writing, moderates the effect of WM training on writing. Learners' (N=80) writing performance was assessed before and after Dual N-back WM training. Writing anxiety levels were examined for any potential interaction with the intervention. Results from ANCOVA, Pearson's correlation, and Two-Way ANOVA have revealed two things. First, writing anxiety is significantly correlated with writing performance. Second, the treatment group outperformed the control group even after controlling for both initial performance and anxiety levels. The findings indicate that there is a significant anxiety-treatment interaction effect on writing performance. Implications are discussed.

KEYWORDS: anxiety, dual N-back, interaction effect, second language writing, working memory

Introduction

To skillfully produce an effective composition, a writer is expected to meet a range of linguistic and extra-linguistic criteria, from mechanics and word choice to structure, coherence, cohesion, and pragmatic aspects of text construction. Hence, the writer is faced with the task of constantly juggling various demands while trying to translate her thoughts on paper (Olive 2012), which often leads to a cognitive overload (Kellogg 2008). This is mainly because information needed to process such demands is stored in (WM), which has limited capacity (Olive 2012). Accordingly, it seems that writers, especially English as a Foreign Language (EFL) writers, may fall back when it comes to producing an effective text which succeeds in meeting all the demands of writing. It seems that even when L2 writers have the necessary knowledge to successfully meet each demand in isolation, when it comes to managing all of them simultaneously, especially in a timed-writing task, these learners often produce insufficient texts. A perfectly grammatical essay, for instance, may be insufficient in structure or coherence. Likewise, a coherent essay may lack in content or punctuation, or vice versa (Mohamed & Zouaoui 2014).

Since smaller WMC is believed to be responsible for more strain being placed on an individual, it should be the case that an increase in WMC would reduce cognitive load, and an increase in WMC is believed to take place after WM training (WMT). Hence, this study attempts to examine whether WMT, implemented in an attempt to increase WMC, is effective in improving writing performance. However, WM functioning has been found to be affected by various other factors, one of which is anxiety. Likewise, L2 writing is widely believed to be affected by anxiety. This study, therefore, examines the interaction effects of WMT and anxiety on L2 writing performance.

Working Memory

A central constituent of nearly any human function, WM is defined as the collection of cognitive resources used to process information simultaneously with other mental tasks (Baddeley 2002). The most prominent of WM models was initially devised by Baddeley and Hitch (1974). The model was comprised three components: the central executive (CE) (responsible for controlling

attention), the phonological loop (responsible for processing language), and the visuospatial sketchpad (responsible for processing visual and spatial stimuli). Baddeley's (2000) revised model added a fourth component, the episodic buffer (an interface between the other components) (Baddeley 2012). The model has been adopted as a theoretical framework for research in a wide range of fields, including language acquisition and learning. Numerous studies have revealed that WM is a significant contributor to first language (L1) acquisition (Baddeley, Gathercole & Papagno 1998) as well as L2 learning (Linck, Osthus, Koeth & Bunting 2014); Skehan 2002).

Dual N-back

With proliferating research on WM over the last decade also came proliferating attempts at enhancing WMC and consequently improving performance on various cognitive tasks. The most commonly-employed WMT program today is the dual N-back task, adapted in 2003 by Susanne Jaeggi and her colleagues from Kirchner's (1985) single N-back task (Jaeggi et al. 2003). In the task, two stimuli, one visual and one auditory, are presented simultaneously in series, both to be remembered together. These two N-back tasks, when performed simultaneously, were originally claimed to improve WMC, which in turn is believed to be transferred to other, untrained, cognitive tasks such as fluid intelligence after eight weeks of training (Jaeggi et al. 2008). Such claims raised a wave of controversy on the effectiveness of dual N-back training which has yet to be settled today. While some studies on WMT have reported only near transfer effects, others have reported far transfer effects, and others have reported no effects (Soveri, Antfolk, Karlsson, Salo & Laine 2017). To the knowledge of the researchers, no studies are available in the literature which examine the far-transfer effects of the training program on L2 writing performance.

Working Memory and L2 Writing

Various empirical as well as theoretical studies have also been carried out in attempt to establish a relationship between the two constructs (McCutchen, Covill, Hoynes, & Mildes, 1994; Kellogg 2008; Hoskyn & Swanson 2003; Vanderberg & Swanson 2007). Kellogg (1996) asserted that every writing process is dependent on WM except the executing sub-process, mainly due to its purely physical (and mostly automatic) rather than cognitive nature. In studying the significance of WMC in writing, researchers have focused on potential cognitive overload. The demands placed on the writer to translate her thoughts into written form consumes a significant amount of WM resources, so much that the resources available for planning and other processes are limited; hence, performance is likely hindered (Bourdin & Fayol 1994). This is because the writer is faced with numerous other demands: 1) making sure her spelling, handwriting, and grammar are up to standards, 2) trying to predict and meet the expectations of the readers as well constantly making sure she is not deviating from the task or the prompt, 3) juggling any newly-generated or unexpected ideas, in which case she has to make the decision of either delaying this newly-generated information until she has finished her current task or finishing her current task at the expense of maybe losing fresh ideas. Other demands, which may be seen as constraints, are external factors such as time management or environmental distractors. All of these simultaneously being juggled are the responsibility of the WM system, a system which is already limited in both storage and processing capacity (Olive 2012).

Accordingly, all of this seems to be even truer for those writing in a non-native language. These learners are not only faced with all of the cognitive load and strain already associated with writing, but they are also faced with the added strain of managing it in a language foreign to them. They may put forth more effort than natives when retrieving lexical items or generating grammatically or stylistically effective sentences or paragraphs. Sometimes they may be faced with cultural barriers, which may prevent them from effectively writing to a certain audience. Lu (2015) stated that "language learners, when they are writing in their L2, they must use part of their cognitive

resources to focus on the language so that other functions, such as higher-order functions for organization and discourse cannot be engaged at full capacity" (p. 176).

The Role of Anxiety

According to Eysenck and Calvo's (1992) Processing Efficiency Theory, worry and anxiety lead to a decrease in WM storage and processing capacity. This is because worry leads to a pre-occupation with failure or being judged, and this preoccupation consumes a significant amount of already-limited resources of WM, leaving less resources and hindering processing and storage capacity for devoted to the task at hand. The debilitative role of anxiety in WM is supported by numerous researchers (Eysenck & Calvo 1992; Mitte 2008). Moran (2016) conducted a meta-analysis of 177 samples which includes 22,061 participants and found a significant negative correlation between anxiety and WMC. When a particular task relies on WM, under certain levels of anxiety, WMC or processing is hindered by anxiety and hence the task is as well. The role of anxiety has also been found to play a debilitative role in L2 writing (Al Asmari 2013; Lee & Krashen 2002; Rezaei, Jafari, & Younas 2014).

Based on the evidence available in the literature, this study set out to test whether anxiety functions as a significant moderator in the relationship between WMT and L2 writing performance. It set out to test whether WMT affects L2 writing performance and whether anxiety levels alter, or interact with, the effect of the intervention on L2 writing performance. Accordingly, the aim of this study is two-fold. First, it aims to assess the extent of the far-transfer effects, if any, of Dual-N back WMT program on L2 writing performance. Second, it aims to examine any potential anxiety-treatment interaction effects on writing performance.

The following research questions were adopted:

1. Is there a main treatment effect of dual N-back WMT on EFL learners' writing performance?
2. Is EFL learners' anxiety levels correlated with their writing performance?
3. Is there a significant anxiety-treatment interaction effect on L2 writing performance?

Method

Participants

The sample consists of 80 Algerian university students enrolled as second year students of English as a Foreign Language (EFL) at L'arbi Ben M'hidi University in Oum El Boughi, Algeria. The researcher assigned 42 participants to the control group and 38 to the experimental group. Of the total sample, 15 are male and 65 are female. This predominance of females over males reflects the same predominance across the whole faculty and department.

Measurement tools

The researcher adapted Cheng's (2004) self-report scale, the Second Language Writing Anxiety Inventory (SLWAI), for measuring writing anxiety. The questionnaire contains 22 items answered on a 5-point Likert scale, with 0 denoting 'strongly disagree' and 4 denoting 'strongly agree'. The inventory's original internal consistency yielded a Cronbach's alpha of .91 (Cheng 2004). Results from this study yielded an alpha of .92, indicating strong internal consistency. Writing performance was operationalized using a writing prompt to which students were expected to respond in the form of an essay. They were then evaluated based on a 30-poimt evaluation rubric which was divided into five categories of writing: organization, development, word choice, sentence structure, and mechanics. Two raters, both doctoral candidates in English, evaluated the essays and discussed cases of disagreement until agreement was reached. The researcher ran an inter-rater reliability analysis using the inter-class correlation coefficient, which yielded a coefficient of .94, indicating strong inter-rater reliability.

The intervention

The intervention for this study is WMT, applied via the Dual N-back program (Jaeggi et al. 2003). The task is typically completed using some form computer program; in this intervention, the subjects completed the task mostly on their mobile devices, some on their phones and others on their tablets or iPads. In the game, the participants were presented with a large square which is divided into nine smaller inner squares (three rows and three columns of inner squares. All of the squares are active with the exception of the middle square. At each position one of the squares flashes (a visual stimuli) and, at the same time, a letter is uttered. Each participant was responsible for remembering both stimuli n positions back so that they indicate when the current position matches. The current position may match in terms of only one stimulus (either visual or auditory), or it can match in terms of both stimuli. Subjects were responsible for stating either case. As each subject matches each level, they progress to the next level, in which the n increases; for instance, from two positions back to three then four positions back, and the game becomes more difficult. At the end of every session, they are provided with the statistics for their performance.

Participants were provided with a grid to fill out at each trial, reporting scores for position, for sound, and the total score. Since significant effects of dual N-back WMT have been reported after 3 weeks of training (a total of eight hours of training) (Jaeggi et al. 2008), subjects were given more than 8 hours total throughout the semester to complete the tasks in class, and those who failed to do so were asked to work at home. At the end of the intervention, the researchers collected their grids and screenshots of the graphical representations of what they had completed, which also included their scores and progress throughout all of the sessions. All procedures and data were applied and collected, respectively after compliance from all the subjects. They had full knowledge and provided full consent of their participation in the experiment.

Results and Discussion

Results from the preliminary descriptive statistics revealed that pre-test writing scores ranged from 3 to 21.5 with a mean (M) of 12.40 and a standard deviation (SD) of 4.32, from a possible score of 30. Anxiety scores ranged from 4 to 58 (M=26.47, SD=12.84) out of 60, and post-test writing scores ranged from 8 to 21.5 (M=13.56, SD= 3.34). The researcher also ran tests for assumptions of parametric testing (in this case analysis of covariance, Pearson's correlation coefficient, and two-way ANOVA). The boxplots indicate that data for the three variables do not contain any outliers, and results from Kolmogorov-Smirnov's test for normality indicate a normal distribution of data for pre-test writing scores (D (72) = .07, p = .533), post-test writing scores (D (72) = .08, p = .062), and anxiety scores (D (72) = .089, p = .147). Finally, Levene's test for equality of variances indicates equal variances across groups for pre-test writing scores (F (1, 78) = 1.11, p = .295), for post-test writing scores (F (1, 78) = .262, p = .297) and for anxiety scores (F (1, 70) =.264, p = .609).

Results from ANCOVA (presented in Table 1) have revealed that there is a statistically significant difference between the two groups in their final writing score after controlling for their initial scores, F (1,77) = 9.016, p = .004. To gain a better understanding of how the covariate (pre-writing scores) affected the original means of the two groups, the adjusted means were referred to (M=12.76 for the control and M=14.44 for the experimental group). Results from the Pearson Correlation analysis indicate that a L2 writing anxiety is statistically and negatively correlated with L2 writing performance at the .01 level (r (72) = .47, p = .000). Hence, higher anxiety levels are associated with lower writing performance and vice versa.

Table 1. ANCOVA results controlling for pre-test scores

Tests of Between-Subjects Effects

Dependent Variable: Post-writing

Source	Type III Sum of Squares	df	Mean Square	F	Sig.	Partial Eta Squared
Corrected Model	412.972[a]	2	206.486	33.791	.000	.467
Intercept	422.065	1	422.065	69.070	.000	.473
Pre-writing	396.070	1	396.070	64.816	.000	.457
Group	**55.094**	**1**	**55.094**	**9.016**	**.004**	**.105**
Error	470.525	77	6.111			
Total	15585.250	80				
Corrected Total	883.497	79				

a. R Squared = .467 (Adjusted R Squared = .454)

Finally, after running Pearson Correlation analysis, the researcher tested for a treatment-anxiety interaction effect using two-way ANOVA. As Table 2 summarizes, the treatment itself (represented by the 'group' row) did not yield a significant effect (F (1, 72) = 1.438, p = .235). However, having already tested the effect of the treatment when controlling for pre-test scores (via ANCOVA) and establishing an association, what remains of major importance is whether anxiety has interacted with the treatment and altered its effect on writing performance. Statistics for treatment-anxiety interaction are presented in the bold row (group * anxiety), which indicate that there was a significant treatment- anxiety interaction effect (F (3,72) = 3.028, p = .036). Therefore, anxiety seems to interact with WM training in its effect on writing performance. Figure 1 is a graphical representation for a better understanding of the nature of the interaction effect.

Table 2. Two-way ANOVA results for interaction effect

Tests of Between-Subjects Effects

Dependent Variable: Post-writing

Source	Type III Sum of Squares	df	Mean Square	F	Sig.	Partial Eta Squared
Corrected Model	237.902[a]	7	33.986	3.970	.001	.303
Intercept	9711.801	1	9711.801	1134.481	.000	.947
Group	12.312	1	12.312	1.438	.235	.022
Anxiety	118.402	3	39.467	4.610	.006	.178
Group * anxiety	**77.762**	**3**	**25.921**	**3.028**	**.036**	**.124**
Error	547.876	64	8.561			
Total	14016.000	72				
Corrected Total	785.778	71				

a. R Squared = .303 (Adjusted R Squared = .226)

As the figure shows, anxiety levels have been categorized and transformed into nominal scale for the convenience of the statistical test. Those with anxiety levels from 0-14 were categorized as 'low anxiety', those with scores of 15-29 were placed under the category of low-mid anxiety, those with scores of 30-44 were categorized as mid-high anxiety, and those with scores of 45-60 have the highest level of anxiety.

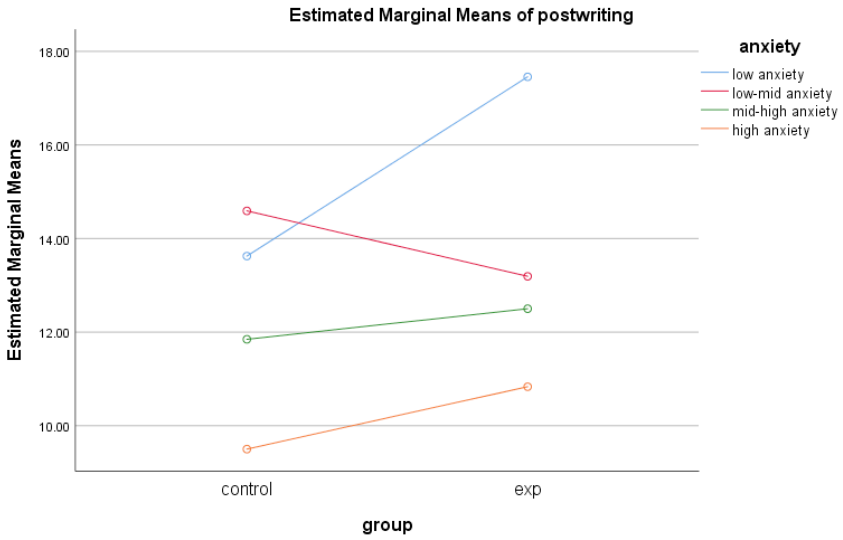

Figure 1. Graphical representation of treatment-anxiety interaction

The graphical representation allows for the comparison of the four anxiety levels simultaneously with respect to the two groups and writing achievement. It seems that the higher the anxiety levels of individuals, the lower their writing scores (estimated marginal means). This is evident when looking at the four lines; the bottom line, where the lowest performers lie, represents the highest level of anxiety while the top line, where the highest performers lie, represents the lowest level of anxiety. Moreover, when anxiety is contextualized against the two groups, it is evident that within each level of anxiety the experimental group outperformed the control group except for one level (low-mid anxiety). Hence, although the experimental group seemed to have outperformed the control group overall, there seems to be a huge variation in performance of both groups among those with different anxiety levels.

The first research question, which sought to determine whether an intervention of Dual N-back WMT affected L2 writing performance, was answered via ANCOVA, controlling for the covariate pre-test writing scores. Results revealed that, after controlling for their original writing scores, those of the experimental group performed significantly better than those of the control group, indicating that WMT does lead to far-transfer effects. These findings are in parallel with findings from Jaeggi et al. (2008). Also, these results suggest that WMT does have some effect on writing performance, particularly L2 writing. These findings seem to support Kellogg's (1996) theoretical model of how WM significantly contributes to writing. Furthermore, the findings seem to be in parallel with those of Linck, Osthus, Koeth, and Bunting, (2014), who found that WM had contributed to aspects of L2 learning and Vanderberg and Swanson (2007) and Hoskyn and Swanson (2003), who found WM to be a significant contributor to writing performance. Hence, from these findings, the researcher can cautiously conclude that the training program may have been effective in increasing WMC, which may have led to the difference in final performance between the control and the treatment group.

The second research question, which sought to determine whether L2 writing anxiety was associated with L2 writing performance, was answered via Pearson's Correlation Analysis. Results from the analysis indicate that L2 writing anxiety is significantly correlated with L2 writing performance. These findings are in parallel with those of various other researchers (Al

Asmari 2013; Lee & Krashen 2002; Rezaei, Jafari, & Younas 2014), who found a debilitative effect of anxiety on L2 writing. Finally, the third question sought to determine any potential interaction effect that anxiety may have with the treatment in its effect on writing performance. Results from Two-Way ANOVA indicate that a significant interaction effect exists between L2 writing anxiety levels and the WMT in its effect on L2 writing performance. Although the researchers failed to find any studies which examine such interaction effects, these results seem to support previous research which claims that anxiety functions as a significant impediment for WM capacity (Eysenck and Calvo 1992; Mitte 2008; Moran 2016). Hence, from the current findings, not only can one conclude that anxiety is a significant factor in L2 writing performance and WM performance, but one can also conclude that it may significantly moderate the effect of any potential interventions attempting to improve WM performance. The final results of such interventions, therefore, will likely be altered. In some cases, such interventions may appear to be ineffective. Individuals who may seem to be unaffected by WMT may actually be hindered by an external variable such as anxiety. Likewise, those performing poorly on writing tasks may also be hindered by anxiety. Hence, the role of anxiety is two-fold, it negatively affects writing performance, and it negatively affects already-limited WM capacity.

Conclusion

These findings have implications for researchers as well as practitioners. First, in gaining a better understanding of the debilitative role of anxiety in both writing and WM, researchers may be able to account for aspects of performance which may not have been accounted for previously. Particularly, these findings provide insight into the role of the complex interplay of the set variables at hand. For instance, the moderating role of anxiety in the relationship between WM and writing, particularly L2 writing, has not been researched thus far. Accordingly, these findings not only provide insight into the role of these variables, but they may also pave the way for further, more elaborate, research into the nature of each role and maybe its interaction with other factors. Second, with such findings practitioners, particularly L2 teachers and maybe course designers, can devise course content, objectives, or activities with the aim of reducing learners' anxiety levels for maximum benefit. When such precaution is taken, practitioners may be able to see improvements not only in writing performance but also in overall language learning.

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On Freedom in the Artificial Age

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ABSTRACT: The currently ongoing introduction of *Artificial Intelligence* (AI), robotics and big data into our contemporary society causes a market transformation that heightens the need for ethics in the wake of an unprecedented outsourcing decision making to machines. Artificial Intelligence (AI) poses historically unique challenges for humankind. This chapter will address legal, economic and societal trends in the contemporary introduction of Artificial Intelligence (AI), Robotics and Big Data derived inferences. In a world, where there is a currently ongoing blend between human beings and AI, the emerging autonomy of AI holds unique potentials of eternal life but also imposes pressing legal and ethical challenges in light of AI gaining citizenship, overpopulation concerns and international development gaps. The current legal status of AI and robotics will be outlined with special attention to consumer protection and ethics in the healthcare sector. The unprecedented economic market revolution of outsourced decision making to AI will be captured in macroeconomic trends outlining AI as corruption free market solution, which is yet only prevalent and efficient in some parts of the world. Finally, a future-oriented perspective on the use of AI for enhancing democracy and diplomacy will be granted but also ethical boundaries envisioned. The mentioned transition appears to hold novel and unprecedentedly-described freedom challenges in our contemporary world. In an homage to freedom, the following paper first lays open these freedom-threatened areas in order to then provide strategies to alleviate these potential freedom deficiencies but also set new freedom potential free.

KEYWORDS: AI, Artificial Intelligence, Climate change, Climate justice, Discrimination of excellence, Freedom

1. Introduction

1.1 Overview

The following research nurtures an environment of freedom in our contemporary society. The currently ongoing introduction of *Artificial Intelligence* (AI), robotics and big data into our contemporary society causes a market transformation that heightens the need for ethics in the wake of an unprecedented outsourcing decision making to machines (Puaschunder 2018b, 2019g, l, forthcoming a). Artificial Intelligence (AI), Robotics and Big Data revolutionized the world and opened unprecedented opportunities and potentials in healthcare. No other scientific field grants as much hope in the determination of life and death and fastest-pace innovation potential with economically highest profit margin prospects as does medical care.

Freedom lies at the heart of human beings and is the core of human endeavors. Freedom is fundamental in sorts of modes of living. It becomes a motor of motivation and a driver of striving. Only when being free, people can release their truly creative inner spirit. Freedom has many facets and faces. The natural, technological and the social. Research on freedom can enlighten different domains: the natural, the technological and the social (Puaschunder 2010).

Regarding technological change, freedom can lift the shackles from a new technology hegemony but also set productive energy of humans free in an efficient market transition featuring a harmonious human-machine compatibility (Puaschunder 2019c, d, i, j). Shedding most novel light on the currently ongoing market transition of an entrance of AI into society is an

[1] The author declares no conflict of interest. All omissions, errors and misunderstandings in this piece are solely the author's.

innovative approach to improve productive societies and innovative progress yet with attention to ethics to ensure a liveable climate in an artificial society.

2. Freedom

2.1 Artificial healthcare

An expert survey conducted in November 2019 identified big data-driven knowledge generation and tailored personal medical care but also efficiency, precision and better quality work as most beneficial advancements of AI, robotics and big data in the healthcare sector. Decentralized preventive healthcare and telemedicine open access to personalized, affordable healthcare.

Technical advancements and big data insights – at the same time – increase costs for a whole-roundedly healthy lifestyle. Particularly in Western Europe, the currently tipping demographic pyramid coupled with obstacles to integrate migrants long-term to rejuvenate the population and boost economic output impose challenges for policy makers and insurance practitioners alike. Studies in the US found that 70% of all health related costs are accrued during the last few weeks of peoples' living. In Austria, healthcare cost are expected to double in this decade. This predicament of rising costs of an aging Western world population, raises questions such as – Should we decrease the access to the best quality medical care in order to maintain the pursuit of a mandate of medical care for all – or should we allow a different-tiered class-based medical system, in which money determines who can afford excellent healthcare? Potentials of AI in healthcare comprise of big data and computational power hold unprecedented scientific and financial opportunities. Crowd understanding, trends prediction and preventive healthcare control, e.g. genetic testing (278 tests via blood in the US, egg freezing hand-picked most prosperous genetic material, 23andme insights lead to challenging questions of ethics.

In the healthcare sector, the EU has a competitive advantage over the US and China as for a historically-grown wealth of data on a homogenous population ennobled with an ethical imperative focus. Due to a highly-skilled population, the European continent is a technological innovation leader and picks up technological advancements around the world quickly and efficiently. Europe has a post-war history of stressing ethical considerations in market-driven innovations that it bestows upon scientific advancements – for instance, more precautionary standards in releasing drugs. Europe has an extraordinarily homogeneous population and hosts a major part of pharmaceutical agencies that are relatively independent of market actors – in the US, for instance, big data insights are regulated by the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC), two agencies that are more market oriented. European citizens pay for free universal healthcare by automatic provision of data. In the age of information, in which big data has become the new untaxed wealth generation means, novel computational advancements can now retrieve medical insights from patient data that can be capitalized, especially for preventive medical care. Contrary to the US, within the EU healthcare is oriented towards preventive rather than emergency and reconstructive medicine and puts a human face on capitalism. The US medical market is more fractionated into public and private sector health and features a more market-focused approach, in which ethics often get sidetracked. China offers a traditionally completely different Asian medicine school and human rights standards are challenged when it comes to harvesting prisoners for organs and access to medical care becoming dependent on social credit scores. Europe can therefore offer the world a big data-driven preventive medical care in the Western tradition with particular attention to ethics.

2.2 Artificial Intelligence Ethics

The most recent decade featured a data revolution in the healthcare sector in screening, monitoring and coordination of aid. Big data analytics have revolutionized the medical profession. The health sector relies on Artificial Intelligence (AI) and robotics as never before. The opportunities of unprecedented access to healthcare, rational precision and human resemblance but also targeted aid in

decentralized aid grids are obvious innovations that will lead to most sophisticated neutral healthcare in the future (Puaschunder forthcoming c, d).

Yet big data driven medical care also bears risks of privacy infringements and ethical concerns of social stratification and discrimination (Puaschunder 2017a, b, c, d, 2018a). Today's genetic human screening, constant big data information amalgamation as well as social credit scores pegged to access to healthcare also create the most pressing legal and ethical challenges of our time. The call for developing a legal, policy and ethical framework for using AI, big data, robotics and algorithms in healthcare has therefore reached unprecedented momentum to ensure a future freedom from a digital hegemony but also to set productive energy free in light of a possible harmonious technological revolution (Puaschunder 2019j).

Problematic appear compatibility glitches in the AI-human interaction as well as a natural AI preponderance outperforming humans (Puaschunder 2019a, b). Only if the benefits of AI are reaped in a master-slavelike legal frame, the risks associated with these novel superior technologies can be curbed. Liability control but also big data privacy protection appear important to secure the rights of vulnerable patient populations. Big data mapping and social credit scoring must be met with clear anti-discrimination and anti-social stratification ethics. Lastly, the value of genuine human care must be stressed and precious humanness in the artificial age conserved alongside coupling the benefits of AI, robotics and big data with global common goals of sustainability and inclusive growth.

Reports to the European Parliament aimed at helping a broad spectrum of stakeholders understand the impact of AI, big data, algorithms and health data based on information about key opportunities and risks but also future market challenges and policy developments for orchestrating the concerted pursuit of improving healthcare excellence. Stateshuman and diplomates are invited to consider three trends in the wake of the AI (r)evolution:

Artificial Intelligence recently gained citizenship in robots becoming citizens: With attributing quasi-human rights to AI, ethical questions arise of a stratified citizenship. Robots and algorithms may only be citizens for their protection and upholding social norms towards human-like creatures that should be considered slave-like for economic and liability purposes without gaining civil privileges such as voting, property rights and holding public offices.

Big data and computational power imply unprecedented opportunities for: crowd understanding, trends prediction and healthcare control. Risks include data breaches, privacy infringements, stigmatization and discrimination. Big data protection should be enacted through technological advancement, self-determined privacy attention fostered by e-education as well as discrimination alleviation by only releasing targeted information and regulated individual data mining capacities.

The European Union but also the North American Free Trade Agreement should consider establishing a fifth trade freedom of data by law and economic incentives: in order to bundle AI and big data gains large scale. Europe holds the unique potential of offering data supremacy in state-controlled universal healthcare big data wealth that is less fractionated than the US health landscape and more Western-focused than Asian healthcare. Europe could therefore lead the world on big data derived healthcare insights but should also step up to imbuing humane societal imperatives on these most cutting-edge innovations of our time (Puaschunder 2018c).

2.3. Leadership recommendations

In order to enable a big data capitalization coupled with upholding highest ethical standards, the European Union should foster a fifth trade freedom of data to bundle AI and big data gains large scale. While big data is primarily used in the US to offer more targeted consumerism, Europe should aim for building a data stock to retrieve information for preventive care leading the world with ethical imperatives in big data insight-driven medicine. A fifth data freedom should focus on setting positive market incentives for sharing information within the European compound, but also provide the necessary tools for anti-discrimination and human rights violations stemming from big data and robotics.

Data insights should only be used for the benefit of people but not be turned against human beings. A stakeholder survey conducted in November 2019 revealed that risks in the use of big data insights, AI and robotics in healthcare include: Data misuse and leakage leading to privacy infringements, as well as biases and errors (Puaschunder 2019. Big data insights open gates for health care pricing, stigmatization, social stratification, discrimination and manipulation.

Big data in the healthcare sector should only be used with caution and targeted particular information release to avoid discrimination. For instance, only anonymized data slices should be made available to the public in order to avoid stigmatization, gentrification and discrimination based on predictable prevalences within population groups or certain districts.

Data protection through technological advancement, self-determined privacy attention through education as well as discrimination alleviation through taxation of data transfer values are recommended. Taxation of data transfer revenues will grant the fiscal space to offset losses and the social costs of market distortions caused by robots and algorithms taking over human tasks and entering the workforce in the medical marketplace.

As for the tipping age pyramid, robots are expected to become vital parts of our healthcare community in elderly care and care with people with chronic diseases in need for long-term medical attention. Robots have recently gained citizenship.

With attributing quasi-human rights to robots, ethical questions arise of a stratified population and sustainability when considering the eternal character of robots. 3 legal codes for enabling a diversified citizenship: Ancient Athenian city state (classes of citizens with active and non-active or no voting right at all), Roman Law (liability predicaments solved in taxation and risks involved in slavery) & Code Napoléon (male and female differing on property rights and market activity). Robots may only be citizens for their protection and upholding social norms towards human-like creatures but may not have full citizen privileges such as voting, property rights of possession and holding a public office.

Compatibility with AI will become key and should be integrated into educational curricula, personality trainings and intelligence scores in admission acceptance testings. Humanness will become more precious in the future, such as true care, empathy, procreation etc. Loss of humanness and human replacement as well as dependence → psychological studies of the value of true care and long-term studies are needed. Diversity in AI based on stakeholder engagement.

3. Interconnected Freedom Endeavours

In a world, where there is a currently ongoing blend between human beings and artificial intelligence, the emerging autonomy of AI holds unique potentials of eternal life. With AI being endowed with quasi-human rights and citizenship in the Western and Arabic worlds, the question arises how to handle overpopulation? 24/7 functionable will raise sustainability concerns and likely exacerbate climate change. Should AI become eternal or is there a virtue in switching off AI at a certain point? If so, we may have to redefine laws around killing, define a virtue of killing and draw on philosophy to answer the question how to handle the abyss of killing AI with ethical grace, rational efficiency and fair style. The presented theoretical results will set the ground for a controlled AI-evolution in the 21st century, in which humankind determines which traits should remain dominant and which are meant to be killed.

4. Freedom Strategies

4.1 Natural behavioural law

Evolutionary grounded and practiced ever since, fairness is a natural behavioral law – a human-imbued drive being bound by human fallibility. My research theoretically defines fairness as a natural behavioral law, captures human ethicality bounds and system downfalls in the compatibility with novel technologies. Overall, introducing fairness as a natural behavioral law advances the legal case for codifying justice on an international basis. A whole-rounded ethical decision-making anomalies frame can shed light at bounded ethicality concerns. Exploring contemporary ethics constraints

regarding the technological revolution will allow to experimentally test the generalizability and moderators of fairness. Investigating cognitive facets of fair decision making innovatively guides foresighted protection education and social policy implementation. Enhancing artificial compatibility, social welfare and environmental protection through discussing fair public policies is aimed at alleviating future predictable economic, social and environmental crises in order to ensure a sustainable humankind (Puaschunder 2019e).

4.2 Legal endeavours

One of my projects studies 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 global economy and human society? 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 (Puaschunder 2019c, g, k).

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. How to balance robots living forever in light of overpopulation and finite resources? How do we switch quasi-human intelligence off when misbehaving or if AI life has become a burden that cannot be borne by society? 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? Should we reap the economic benefits of AI and have a democracy with a diversified populace of human enslaving robots? Is feelingless AI vulnerable and prone to become enslaved or will the computational power and energetic capacities of robots outperform and enslave humankind? 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 insusceptible to bribery and fraud, or does the installment of algorithms in leadership positions imbue dangers to humankind (Puaschunder forthcoming b)? How should we organize the human-led evolution of AI production and the blend of human-AI enhanced workforce? And what is it that makes human humane in the artificial age?

Future research should 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.

5. Discussion and Future Research Endeavours

Importance of freedom for human beings is an eternal and global imperative, which highlights the relevance of future research. The power divide imperatives between human and AI robotics should 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.

With the introduction of robots in our contemporary society, 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.

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.

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Prospects on the European Investigation Order in Relation to Joint Methods Deficiencies

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ABSTRACT: We emphasize in the present study that, in the context of cross-border crime evolution, it was developed an instrument based on mutual recognition of judicial decisions by member states authorities from the European Union, entitled the European Investigation Order, which, although was intended as a unitary approach in the procurement of evidence process, compared to the old fragmentary system, this purpose could not be achieved. We also point out the dangers of violating the protective guarantees of the persons rights, for those individuals that are targeted by the investigative measures, in relation to particularities of various national penal systems regarding the procurement by the executing State of evidence to be used in judicial procedures by the issuing State.

KEYWORDS: European Investigation Order, human rights infringement, transnational evidence procurement

Introduction: Understanding the normative context

In view of the ease with which the borders of the Member States of the European Union can be crossed, as well as the ability to transfer valuable goods, including money, which have determined the criminal phenomenon to obtain international validity, the judicial bodies are put in a position to constitute the evidence ensemble by corroborating the information found outside the state jurisdictional boundaries.

In the fight with cross-border crime, it is of particular importance the ability of law enforcement to exchange evidence in a timely manner and at minimum costs, this being the case of the EU (Lach 2009, 109), where the increasingly permissive national borders have intensified the danger of dodging criminal liability, strengthening the cooperative efforts to collect evidence, placing itself in agreement with the supreme interest of ensuring a space of freedom and security for European citizens (Heard and Mansell 2011, 353).

Precisely considering the accelerated evolution of the cross-border crime means, cooperation instruments such as Rogatoire Commission become redundant in criminal investigations (Austria, Belgium, Bulgaria, Estonia, Slovenia, Spain 2010, 6), which determined the conformity of the state authorities to the concept of *mutual recognition* (Court of Justice of the European Communities 1978, eur-lex.europa.eu) as a basis in most areas of judicial cooperation (Ruggeri 2015, 149), thus delimiting a unique working instrument, the *European Investigation Order* (College of Policing 2018, 1), based on the recognition of judicial decisions reciprocity, on mutual trust between the Member States, on the direct communication between the authorities involved, as well as on the partial removal of the imperative of double indictment (Klimek 2017, 104).

Thus, in order to adopt common standards for the collection of evidence in criminal proceedings in the Member States (Commission of the European Communities 2009, 5), so as to guarantee respecting the right to defense (European Commission 2005), as well as to ensure their admissibility before the court (European Parliament 2010, 18), the European Investigation Order (EIO) appears as an operational tool more effective in the context of European cooperation (Camaldo 2014, 206) and, despite the fact that judicial decisions in criminal matters are not *commercial products* (Klimek 2017, 84), applying the principle of movement of goods freedom, mutual recognition intends to compel each Member State to validate the judicial decisions of

another Member State, even if they were deliberated under a different legislative system (Janssens 2013, 11).

Departuring from the objective of mutual acknowledgment of the decisions taken in order to obtain evidence in cases with a cross-border dimension (Paragraph (6) of the Directive 2014/41/EU Preamble), in order to appropriate the methods of finding the truth in the transnational criminal cases (Council of the EU 2010, 21), the applicability of the EIO parameters have been established, understood as a decision issued or validated by a judicial authority in a criminal proceeding, including in the trial phase, consisting of cross-border investigation measures, instituted for the collection of evidence, applicable only between subscribing states (Ramos 2019, 54), but without covering police-to-police cooperation (EJN 2019, 3).

If only certain investigative measures are regulated in Chapter IV of Directive 2014/41/EU, of which we mention the temporary transfer of persons held in custody, hearing by videoconference or teleconference, covert investigations, interception of telecommunications, the introductory part of the Directive emphasizes the horizontal applicability of the EIO for *any investigative measures* (Article 3 of the Directive 2014/41/EU), except for joint investigation teams, hence also applicable for those yet unregulated investigative measures, which could be legislated only by one of the parties.

In the latter hypothesis, the normative framework offers two solutions, on the one hand, if the measure proposed in the EIO does not exist under the law of the executing State or would not be available in a similar internal case, the executing authority will resort to another investigative measure than the one provided in the order (Article 10 paragraph (1) of the Directive 2014/41/EU), and on the other hand, in the absence of an equivalent investigative measure, the executing authority will notify the issuer regarding the impossibility of providing the requested assistance (Article 10 paragraph (5) of the Directive 2014/41/EU), which indicates that the executing authority lacks the attribute of verifying its legality or proportionality which could have led to the refusal of executing the order (Rafaraci 2014, 40), this type of control being assumed only by the issuing authority (Article 6 paragraph (1) letter a) of the Directive 2014/41/EU).

Violation of human rights in the EIO enforcement procedure

Thus, in spite of the fact that the promoters of this instrument have shown a declarative concern on respecting the human rights, such as the right to dignity, to life, to physical and mental integrity (Council of the EU 2010, 41), reaffirming the importance of fundamental rights as is the case with other mutual recognition tools in criminal matters (Council of the EU 2010, 3), the content of the normative text creates the premises of violating fundamental human rights.

It has been discussed in this regard that, due to differences in national criminal systems, which often lead to the search for feasible compromises for the execution of EIOs (Eurojust 2018, 15), there is a danger that national prohibitions in obtaining and using evidence or other procedural provisions may be circumvented (German Bundestag 2010).

Moreover, it was argued that the transfer and use under the EIO of pre-existing evidence, obtained illegally by the executing State, violates the procedural rights of the suspect / defendant (Austrian Bundesrat 2010), this being the case of recordings *resulting from carrying out specific activities for collecting information* by the Romanian Intelligence Service *which naturally involves restricting the exercise of fundamental human rights or freedoms, but which do not contain information in the field of national security*, whose normative framework has been declared unconstitutional under the Romanian legislative system (Romanian Constitutional Court 2020). In support of this argument, it is brought the notion that the particularity of the regulations in criminal matters developed in the structure of the EU law suggesting interferences in the self-determination capacity of the Member States, obliges to a restrictive interpretation of the European criminal norms, not to an extended one, their use requiring a sound justification (BVerfG 2009, paragraph 358).

Considering the exceptional and interpretative nature of the recourse to reasons of non-execution or non-recognition, likewise to other means of judicial cooperation, such as the European Arrest Warrant (Court of Justice of the EU 2018, C-268/17 paragraph 52, C-367/16 paragraph 48), in order to overturn the assumption of respect for fundamental rights, it is required a concrete analysis on each case separately (Bot 2019, C-324/17 paragraph 85), through which the protective guarantees of the persons rights to be seeked (Bot 2019, C-324/17 paragraph 89).

Thus, situations may arise where, due to differences between national criminal procedures, evidence obtained in one state becomes inadmissible in another, which leads to the erosion of the mutual recognition system (Kusak 2019, 394), although the promoters of the EIO advocated for common standards in the field (European Communities Commission 2009, 5).

In this regard, even if the Member States benefit from a certain margin of appreciation for selecting the means to fulfill the legitimate aims of protecting national security and to fight crime (ECHR 2020, paragraph 108), balancing this national interest with the rights of the individual to privacy, it is necessary to establish effective guarantees against the abuses that can derive from the use of such surveillance systems (ECHR 2006, paragraph 106).

To this end, a measure of inquiry can be considered useless if it excessively affects the privacy of the person (Depauw 2016, 89), the intrusion in this case requiring to reach a certain gravity and be undertaken in such a way that does not harm the right to respect one's privacy (ECHR 2020, paragraph 109).

At the same time, it was grounded for the EIO that the executing authority is not offered the opportunity to challenge the reasoning of the proportionality of the investigative measure adopted by the issuing authority (European Parliament 2019, 2), even in the case of pre-existing evidence that could not be subjected to a strict control by the executing State (Gless 2006, 124), due to the fact that the evidence in question were considered to another type of procedure according to national law, causing either the inadmissibility of the evidence, which makes the EIO unnecessary, or if admissible, causing the violation of the subject's procedural rights (Zimmermann 2011, 72).

Thus, are relevant the European Court of Human Rights judgments showing that the right to privacy is violated if the investigative measures regarding the interception of telephone calls by the intelligence service are not susceptible to *a priori* or *a posteriori* control by a judge or an independent authority (ECHR 2007, paragraphs 73-74) or when law enforcement agencies can identify a perpetrator of an online activity by simply requesting relevant information from the Internet Service Provider, without independent oversight of these prerogatives that allow the authorities to connect an online activity to the identity of a particular person, without his agreement (ECHR 2018, paragraph 130), as well as when it is authorized to intercept a telephone call made by a client to his lawyer, for no serious reasons based on a reasonable suspicion that the person is involved in a serious criminal activity (ECHR 2009, paragraph 51).

Furthermore, the European Court of Human Rights finds an interference in the private life, but not a violation of the fundamental rights, when the GPS surveillance of a person has led to an extensive analysis of his behavior, given that the same person was monitored by two distinct investigative authorities, being simultaneously under video surveillance, having his telecommunications intercepted, as well as mail correspondence, all these measures being justified convincingly by national security and public safety interest (ECHR 2010, paragraphs 77-80).

Whereas we notice Member States tolerance and flexibility over foreign judicial elements (Kusak 2016, 174), the acceptance of external procedures and evidence without further scrutiny, on the basis of the *non-inquiry* principle presumably leading towards an involution of human rights guarantor (Vogler 2013, 38-39), the experience of the European Arrest Warrant might be useful. Thus, it becomes an asset the reasoning of the EU Court of Justice by which were issued the premises of the refusal by the executing State in relation to the proportionality of the measure, when there are elements that prove deficiencies, the executing authority being entitled to examine *whether there are substantial grounds to believe that the individual concerned by a EAW, issued for the purposes of conducting a criminal prosecution will be exposed to a real risk of inhuman*

or degrading treatment in the event of his surrender to that Member State (Court of Justice of the EU 2016, C-404/15; C-659/15). Therefore EIO could be rejected if there is a suspicion that the evidence preconstituted in the executing State in cases involving offenses within the scope of national security protection, could be used in the issuing State in criminal cases of reduced severity or which are not related to national security.

EIO in relation to new investigative models

The variety of socio-economic relations have revealed the need to enhance new action models regarding obtaining specific evidence for certain criminal activities, this being the case of *Proposal for a Regulation (...) on European Production and Preservation Orders for electronic evidence in criminal matters* (eur-lex.europa.eu), set from the idea that judicial cooperation mechanisms are actually obstacles that complicate the access to electronic evidence (European Commission 2017), noticing that the EIO does not reflect the specific features of electronic evidence and does not take into account the current technological leap (Slovenian National Assembly 2018), despite that the mentioned instrument is the main mechanism for obtaining evidence, including electronic ones, within the EU (UK House of Commons 2018).

Also, taking into account the fact that criminal groups use financial assets in their cross-border activities (European Commission 2018), the European organizations have adopted a tool that allows immediate and direct access to the information held in the centralized bank account registers, indispensable for the success of a criminal investigation (Paragraph 8 of the Directive (EU) 2019/1153 Preamble), the purpose of which is to establish evidence-gathering in cases on crimes in the field of money laundering or associated, terrorist financing, as well as other serious offenses, although the EIO may be issued for obtaining information on banking and other financial operations.

Even if in theory, the idea that the EIO has the attribute of verifying the suspect's or defendant's bank accounts and financial operations, as well as facilitating the access of the judicial authorities to e-evidence (European Commission 2017) and that judicial instruments such the ones highlighted above are competent to complete within the Union the area of mutual recognition in criminal matters (Council of the EU 2019, 3), remain without an echo the mainstream regarding the establishment of a standard for obtaining evidence in cases with a cross-border dimension, which should cover as many types of evidence as possible, and which should have the strength to depart from the old fragmentary regime (European Council 2010, point 3.1.1), whose characteristic presumes that the implementation of such instruments should be carried out only for certain tests or through step-by-step procedures (Allegrezza 2014, 52).

Conclusions

Therefore, we pointed out in the present paper that the evolution of the European investigation order as the main instrument of mutual recognition in cross-border criminal cases in the EU, may lead to the area of freedom, security and justice erosion, but in order to avoid such a scenario, we propose the possibility to refuse the execution of an EIO when there is a suspicion that preconceived evidence in cases from the spectrum of national security protection could be used in criminal cases of another nature.

Furthermore, we also pointed out that the directions regarding the establishment of a standard in the field of obtaining cross-border evidence remain doubtful as long as simultaneously with the development of the EIO arises new evidence-gathering tools based on *mutual recognition* principle.

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Legal and Ethical Concerns Regarding Gene Editing

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ABSTRACT: The field of genetics has given rise to technology that will revolutionize the biological sciences: the powerful gene-editing tool known as CRISPR-Cas9. Between medical progress, ultimate new age cure for diseases and the risk of altering human DNA in an irreversible way, the legal challenges of applying CRISPR in the health context, along with the regulatory and ethical issues that might arise must be approached with increased responsibility. A main goal or a variety of purposes? Enhancement or gene editing to improve normal human traits, changes from edited genomes that might be inherited - repercussions of the new gene-editing technology could result in altering human DNA. Current international legislation and interpretation, global consensus worth pursuing on this subject and future regulations required.

KEYWORDS: CRISPR technology, designer babies, gene editing, moral vs. medical benefits, ethical vs. law

Introduction

The lack of public understanding of science, the different approaches of ethical and social matters, technical safety criteria make germline gene editing a topic on whom opinions remain divided and reaching a consensus on whether this technology should be used or prohibited highly difficult.

Deliberately making permanent, heritable changes to the genes of a human embryo and implanting it with the intent to establish a pregnancy has long represented a moral boundary. Techniques to alter the genetic material of living cells have been around since the 1970s, and scientists have long expected they could one day be used for this purpose - but human applications have remained limited due to concerns about safety and efficacy, even as modification of bacteria, plants and animals has become routine.

Independent experts of the UNESCO's International Bioethics Committee (IBC) published a report "*Updating its Reflection on the Human Genome and Human Rights,*" in which they argue that "gene therapy could be a watershed in the history of medicine and genome editing is unquestionably one of the most promising undertakings of science for the sake of all humankind (IBC 2015)"

Around 2012 a system known as CRISPR (which stands for Clustered Regularly Interspaced Short Palindromic Repeats) has been discovered. CRISPR utilizes a natural function of bacteria, which is faster, cheaper and easier to use than earlier techniques to target and change DNA.

In early 2013, Google searches for "CRISPR" began to skyrocket - a trend that has continued unabated. Within a year, investigators had reported the use of CRISPR-based genome editing in many organisms - including yeast, nematodes, fruit flies, zebrafish, mice, and monkeys. Scientific and commercial interest in potential applications in human therapeutics and commercial agriculture began to heat up - as did social concerns about the prospect that the technology could be used to produce designer babies. The early pioneers of CRISPR continued to push the frontiers, but they were no longer alone. Scientists around the world poured in a new cadre of heroes who further elucidated the biology of CRISPR, improved and extended the technology for genome editing, and applied it to a vast range of biological problems (Lander 2016, 26).

A new genome "editing" technique called CRISPR-Cas9 makes it possible for scientists to insert, remove and correct DNA simply and efficiently. It holds out the prospect of treating or even curing certain illnesses, such as cystic fibrosis and some cancers. But germline editing can also make changes to DNA, such as determining a baby's eye color, easier for scientists working with human embryos, eggs and sperm.

Scientists from the Oregon Health & Science University (OHSU) announced in August 2017 that they successfully programmed CRISPR to correct a genetic mutation linked to heart failure in human embryos. This news reignited fears of "designer babies" and "playing God" that opponents of stem cell research in the mid-1990s commonly cited. The news also brought the question of CRISPR regulation to the forefront of national debate, as questions surrounding use of human embryos in research are particularly controversial (Tomlinson 2018, 442).

Two of the scientists on the original CRISPR discovery team, Jennifer Doudna and Emmanuelle Charpentier, published a review paper in *Science,* in 2014*,* in which they concluded that the era of straightforward genome editing raises ethical questions that will need to be addressed by scientists and society at large. How can we use this powerful tool in such a way as to ensure maximum benefit while minimizing risks? It will be imperative that nonscientists understand the basics of this technology sufficiently well to facilitate rational public discourse. Regulatory agencies will also need to consider how best to foster responsible use of CRISPR-Cas9 technology without inhibiting appropriate research and development (Doudna and Charpentier 2014, 1258096-7)

The ethical issues and the rapidity with which the field is expanding requires particular precautions and raises serious concerns. A study examining global legislation and practices concerning genetic modification, published by Hokkaido University in Japan in 2014, showed that 29 of the 39 countries reviewed had a ban on editing the human germ line. In 25 countries, the ban was legally binding. The other four had guidelines, while rules in the remaining ten were described as ambiguous (Amelan, UNESCO).

A scientific breakthrough

CRISPR, an improved and relatively new gene editing tool, is one of the biggest science stories of the decade. It holds tremendous potential for biological and therapeutic applications. Being able to manipulate the human genome in unprecedented ways, with unprecedented precision, better than ever before, made this discovery a matter that could and should concern us all. A substantial debate has developed amongst scholars from a wide range of disciplines, national academies, ethics bodies, members of the public, learned societies and patients. This debate concerns the ethical acceptability of its human applications, among others, and the mechanisms of governance that would be needed to regulate these applications (Cavaliere 2019.)

In November 2018 it was reported that CRISPR was used to alter the DNA of embryos subsequently transferred to a woman, leading to a successful pregnancy and birth. Chinese scientist He Jiankui edited the genome of twin embryos, intending to make them resistant to human immunodeficiency virus (HIV) by disabling the gene CCR5. This experimental intervention has been widely condemned. Concerns have focused on the lack of safety assessments; the lack of a thorough ethical review process; the adequacy of the informed consent document signed by the prospective parents; and the exposure of the twins to the risk of genome editing without a proportionate harm/benefit ratio (Cavaliere 2019).

It will be imperative that nonscientists understand the basics of this technology sufficiently well to facilitate rational public discourse. Regulatory agencies will also need to consider how best to foster responsible use of CRISPR-Cas9 technology without inhibiting appropriate research and development.

This technology has the potential to permanently eliminate hereditary diseases from the human genome in its entirety. But, in the wrong hands, CRISPR could negatively impact the course of human evolution or be used to create biological weaponry.

There are several reasons in favor of conducting basic research with genome editing on human embryos, such as improving the efficacy and precision of genome editing technologies themselves, but also a better understanding of the differences between human and non-human animal developmental biology and improving the understanding of genetic diseases by creating models for in vitro drug testing. The hope is that this would have therapeutic implications such as addressing causes of early miscarriages and improving clinical uses of In Vitro Fertilization (IVF).

Lastly, genome editing's potential to reduce the occurrence of genetic diseases, thereby improving the health of many worldwide, is considered a compelling reason in favor of conducting basic research with this technology.

Therefore, within the debate many ethicists argue that continuing genome editing research in human embryos should be considered a 'moral imperative'.

Germline genome editing research with human embryos involves the destruction of the embryos employed in research. Often ethical distinctions are based on the source of the embryos. For instance, research with human supernumerary embryos (i.e. embryos created during IVF to establish a pregnancy that will no longer be used for this purpose) is often considered more ethically acceptable than research with human embryos created specifically for research purposes. This distinction is reflected in the various legislative approaches to governing embryo research. While some countries allow the creation of embryos for research purposes, others only allow research on supernumerary embryos.

Genome editing is likely to require embryos at the single-cell stage, which will present a governance dilemma for some legislators: the embryos will need to be created specifically for this purpose (i.e. they will not be supernumerary embryos originally created to establish a pregnancy), but many jurisdictions forbid this.

Legal concerns on a global scale

In addition to potentially challenging existing regulatory and ethical frameworks on how to obtain embryos for research purposes, the use of genome editing for basic research raises questions regarding existing limits to conduct research on human embryos.

Amongst the concerns are that, allowing basic research in human embryos with genome editing, may lead to future clinical research regarded as ethically troubling. Second, that allowing basic and clinical research with genome editing on human somatic cells may pave the way to eventually allowing basic and clinical research on the germline. Another set of concerns refers to the risk of moving from "therapeutic" to "enhancing" uses of genome editing.

Given the cross-border effects CRISPR research could have, it calls for an international regime to govern the use of CRISPR. Current and proposed international agreements are aimed at global cooperation. International ban on the matter would risk depriving us of valuable knowledge about human development, and may deprive future generations of novel disease treatments. In international law, the most widely accepted agreement is the United Nations Convention on Biological Diversity.

The European Union's position on human embryo research is set forth in the European Convention on Human Rights and Biomedicine, which bans the creation of human embryos for research purposes. Several countries within the European Union, notably Belgium and the United Kingdom, declined to sign the Convention because they found the terms too restrictive.

The researchers argue that a separate framework is necessary for CRISPR technologies, as opposed to other forms of biotechnology, because of its unprecedented promise and peril, divided

into 5 phases: before preclinical research, during preclinical research, prior to clinical development, during clinical development, and distribution.

It would be an unwise strategy to leave the gene-editing market to regulate itself. To date, the scientific community has done a laudable job of regulating the use of gene-editing technology despite the global absence of law mandating that they do so. For example, following the International Summit on Gene Editing in 2015, the organizing committee released a statement supporting a ban on any CRISPR research that would permanently alter the human germline until there has been further proof of the safety and efficacy of such procedures.

Although many countries or states have strict regulations regarding the creation of human embryos for research, there are still many countries which are ambiguous about the legal status of the modification.

In order to push the conversation forward, media coverage on the topic should be largely involved and the political climate should favor the creation of proper legislation for health purposes best use, so regulatory proposals will be critical for increasing efficiency and ensuring appropriate expertise worldwide.

Also, countries such as China, India, Ireland, and Japan forbid it based on guidelines that are less enforceable than laws, and are subject to amendment. The regulatory landscape suggests that human germline gene modification is not totally prohibited worldwide although there is room for further investigation regarding the "ambiguous" countries. USA currently does not ban, but has imposed a temporary moratorium on the germline gene modification under the Food and Drug Administration vigilance and the National Institutes of Health guidelines. When the safety of genome editing-mediated germline gene correction is enhanced, international community might permit it. In addition, Israel, which explicitly bans germlie gene modification, but has possible exemptions in the relevant law may permit it upon the recommendation of an advisory committee (Motoko and Tetsuya 2014).

Conclusions

In the pursuit to pushing moral boundaries in the quest for greater good, before CRISPR can be largely accepted and used, an increased level of safety that permits clinical applications in the immediate future is entirely required. There are several critical challenges and future prospects of CRISPR-based systems for human research but also the legislation worldwide must keep up with medical progress, regulate and protect all human rights. Each and every country must construct mechanisms of governance for overseeing research with genome editing in humans and will need to consider whether it should be permitted with respect to socioethical implications as well as safety and efficacy. Also, preventive measures against abuses must be taken into consideration, as well as a global cooperation and consensus, since the domino effect might involve the entire humankind.

Taking into consideration the significant potential promise, but also the theoretical potential for misuse, it is reasonable for the global community to take regulations, if not revising older agreements to reflect changes in genomic engineering technologies. Although it's unlikely to eliminate all risks, it is arguably one of the few options available to reasonably control and/or minimize them.

Undoubtedly, it is extremely important to deal with ethical issues raised by rapid changes in medicine, life sciences and technology. Human genome is part of the heritage of humanity. It therefore outlines rules that need to be observed to respect human dignity, human rights and fundamental freedoms.

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About Adoption and People Who Can Adopt in Romania

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ABSTRACT: Although, in principle, any person can adopt and become an adoptive parent, regardless of their marital status (married or single), sex, race, nationality, etc., the Romanian legislation in this area establishes a series of requirements for this. For this purpose, the law on the legal regime of adoption stipulates that the persons or families wishing to adopt must fulfill the moral guarantees, as well as the material conditions necessary for the child's raising, education and harmonious development. The fulfillment of the guarantees and conditions provided by law, as well as the existence of the parental skills, is certified by the general directorate of social assistance and child protection within the territorial area of which the adoptee or the adoptive family resides, by issuing a certificate following the evaluation performed according to the provisions of the adoption law. This study will analyze the requirements to be met by the persons or families wishing to adopt, namely: the age of the adopter, the full exercise capacity, the moral and material ability to adopt, the consent of the adopter and the consent of the adopter's spouse.

KEYWORDS: adoption, internal adoption, international adoption, adoptee, adopter, filiation, family, full exercise capacity, consent, moral aptitude, material aptitude

Introductory concepts and definition of adoption

Adoption, this "*noble expression of generosity by which we prove our solidarity,*" as the distinguished professor Emese Florian (Florian 2018, 465) considers, has played a very important role and has been accepted since ancient times, and in the Roman period, in some situations, it was the most convenient solution for families without legitimate descendants. Thus, in the absence of descendants, "*by adoption the perpetuation of the name and the domestic cult, that is, the feeling of admiration, respect and deep love towards the family is ensured*" (Lupascu and Crăciunescu 2017, 470).

Throughout the time, the adoption was used even for the "*hereditary transmission of the imperial dignity*" (Lupascu and Crăciunescu 2017, 470), in this sense, we can recall that Tiberius was adopted by Augustus, becoming after the death of his stepfather, the second Roman emperor, and Nero was adopted by Claudius and appointed heir, thus becoming, at the death of his stepfather, the fifth emperor of the Iulio-Claudian dynasty, at the age of only 16 years (Matei 1980, 303-306; 205-207).

At the same time, adoption "*has conquered the world,*" becoming an international phenomenon, captivated national parliaments and international bodies (Avram 2001, 90), raised questions and answers from politicians or people of culture. Thus, from their multitude, we mention the French professor Jean Carbonnier, who asked himself "*Adoption, a good or a bad*" and he replied himself "*A bad because it has its origin in the abandonment of children, a good because those children are saved*" (Mihăilă 2010, 7).

In the Romanian specialized literature, adoption has been defined as "*a genealogical remodeling tool, a legal fiction by which the natural filiation and the relations of natural kinship are replaced with a civil filiation, respectively with civil kinship connections*" (Florian 2018, 465), a "*legal institution through which, between a person, called the adopter, and another, called the adoptee, kinship relations are established like those between parents and children*" (Popescu 1965, 107) or "*the operation by which filiation and civil kinship relations are created, according to the law, between the persons provided by law*"(Avram 2001, 90).

In a comprehensive definition the distinguished professor Bodoaşcă (2015, 606), considers that adoption is "*a sui generis legal act with complex and essentially solemn content, on the grounds of which, by observing the public order and good morals, the filiation and natural kinship relations cease for the future, and the connections of filiation and civil kinship are established.*"

The *legal* definition is provided by art. 451 Civ. C., according to which *adoption* is "*the legal operation through which the filiation connection is established between the adopter and the adoptee, as well as kinship connections between the adoptee and the relatives of the adopter.*"

Although, as a rule, adoption is "*a measure for child protection*", in some cases, by way of exception, a major person may be adopted, provided that this one has been raised during the minority, by the adopter (Avram 2016, 427).

Regulations in the Romanian law regarding the adoption

After 1990, a true "legislative revolution" took place in all areas, including family law. For this purpose, a series of normative acts were adopted aimed at adapting some of the provisions of the Family Code of 1953, currently repealed, following the adoption in 2011 of the current Civil Code (Law no. 287/2009 on the Civil Code, Part I, no. 511 of July 24, 2009).

In Romanian law, the adoption procedure is regulated in Title III (Kinship), Book II (About family), Chapter III, in art. 451-482 Civ. C. These provisions are supplemented by those of Law no. 273/2004 on the legal regime of the adoption, republished in the Official Gazette no. 739 of September 23, 2016, with those of Law no. 272/2004 on the protection and promotion of child's rights, republished in the Official Gazette no. 159 of March 5, 2014, as well as with those of the numerous secondary normative acts, adopted in this regard.

Based on art. 5 of the Government Emergency Ordinance (GEO) no. 11/2014 on adopting reorganization measures at the level of the central public administration and for the amendment and completion of some normative acts, published in the Official Gazette. no. 203 of March 21, 2014, approved by Law no. 145/2015, published in the Of. G. no. 145 from June 12, 2015, the National Authority for the Protection of Child's Rights and Adoption (A.N.P.D.C.A.) was established as a specialized body of the central public administration, with legal personality, subordinated to the Ministry of Labor and Social Protection, which ensures, among other activities, the monitoring and controlling the enforcement and observance of the regulations in the field of the protection of child's rights and adoption, as well as the coordination of the activities carried out by legal persons of public or private law in this field [art. 5 paragraph (3) of GEO no. 11/2014].

International regulations on adoption

The internal legislative framework on adoption is supplemented by a series of international regulations on the matter, to which Romania is a party, of which we specify:

- UN Convention on the rights of the child, adopted on November 20, 1989 (Romania acceded to this convention by Law No. 18/1990, republished in the Official Gazette no. 314 of June 13, 2001, as a result of finding differences in translation from English into Romanian);
- The Hague Convention on the Protection of Children and Cooperation on International Adoption, concluded on May 29, 1993 (ratified by Romania by Law no. 84/1994, published in the Official Gazette no. 298 of October 21, 1994);
- The European Convention on the Adoption of Children, concluded in Strasbourg, on April 24, 1967 (Romania acceded to this Convention by Law No. 15/1993, published in the Official Gazette no. 67 of March 31, 1993), reviewed on November 27, 2008 (it was signed by Romania in Strasbourg on March 4, 2009 and ratified by the Law no. 138/2011, published in the Of. G. no. 515 of July 21, 2011);

- Convention on personal relations regarding children, adopted in Strasbourg on May 15, 2003 (Romania ratified the convention by Law no. 87/2007, published in the Official Gazette no. 257 of April 17, 2007).

Classification of adoption

Depending on the habitual residence of the adopter, the adoption may be *internal and international*:

- *Internal adoption* is the adoption in which both the adopter or the adoptive family and the adoptee have their habitual residence in Romania [art. 2 let. c) of Law no. 273/2004]. In a case (Bucharest Court of Appeal, Third Civil Division, decision no. 471 of April 20, 2011, unpublished, *beside* Lupașcu and Crăciunescu 2017, 473-474 footnote 7), "*the question arose whether the adoption of a Romanian child by a family consisting of a citizen of the United Kingdom and his wife (a member of his family) who enjoys a right of permanent residence on the territory of Romania is internal or international*. *Since the granting of the permanent residence cards of the defendant appellant, as a citizen of a Member State of the European Union and of the defendant appellant, as family member of a citizen of the European Union involved the proof that they had a continuous and legal residence on the territory of Romania for a previous period of at least 5 years*", *the Court held that the domicile of the defendant appellants is in Romania and found that the adoption has an internal character*".

- *International adoption* is the adoption in which the adopter or the adoptive family and the child to be adopted have their habitual residence in different states, and, following the approval of the adoption, the child is to have the same habitual residence as that of the adopter [art. 2 let. d) of Law no. 273/2004].

For example, in a case, Bucharest Court of Appeal, decision no. 73 (2011), having as object the adoption of a child, "*The Court finds that, in this case, we are in the presence of an international adoption, since both the adopter, L.G. and the adoptee, G.B.M., have their domicile in Italy*. *The appellants are in a real error in interpreting the legal provisions, since the text of law clearly defines the internal adoption by reference to the domicile of the adopter and the adoptee, all the other adoptions that are not internal adoptions according to the law, being considered international. On the other hand, Law no. 273/2004, at art. 45, explicitly states that international adoption can be approved only in case the adopter or one of the spouses of the adoptive family residing abroad is a relative up to the third degree inclusively with the child for whom the opening of the internal adoption procedure was approved. Or, in this case these legal requirements are not met, as a matter of fact the appellants refer to the special procedure of internal adoption, if the adopter is the spouse of the minor's natural parent. For these reasons, the Court finds that the first court has grounded and legally held that we are in the presence of an international adoption, an adoption that can only be approved under certain special conditions that are not met in this case.*"

Conditions regarding the persons who can adopt

Adopter, shall mean the person who has adopted or wants to adopt", and *adoptive family*, shall mean "the husband and wife who have adopted or want to adopt" [art. 2 let. b) and let. i) of the Law no. 273/2004, republished].

Although, in principle, any person can adopt and become an adoptive parent, regardless of their marital status (married or single), sex, race, nationality, etc., the Romanian legislation in this area establishes a series of requirements for this.

However, race, nationality, religious faith of the adopter will be eligibility criteria, in promoting the principle of continuity in the education of the child, taking into account his/her ethnic, linguistic, religious and cultural origin, according to art. 452 letter c) Civ. C.

The legislation in force regarding the adoption establishes a series of criteria for the adoptive parent that we are going to analyze herein after.

The age of the adopter

According to art. 459 thesis I Civ. Code, the persons who do not have full capacity to exercise cannot adopt. *Per a contrario,* only persons having *full capacity to exercise* can adopt. According to art. 38 Civ. Code., the full exercise capacity begins on the date when the person becomes of age, that is, at the age of 18 [revised European Convention on the Adoption of Children, adopted in Strasbourg on November 27, 2008, states in Article 9, that "(1) *A child may be adopted only if the adopter has reached the minimum age stipulated by the legislation for this purpose, this minimum age being not less than 18 years, not more than 30 years. There must be an appropriate age difference between the adopter and the child, respecting the best interests of the child, preferably a difference of at least 16 years.* (2) *However, the legislation may provide for the possibility of derogation from the condition of minimum age or from the age difference, considering the best interests of the child: a) if the adopter is the spouse or registered partner of the father or the mother; or b) in exceptional circumstances*"].

The Romanian law does not set a minimum age and no maximum age as a condition of eligibility for adoption but, from reading art. 460 paragraph (1) Civil Code it follows that "the adopter must be at least 18 years older than the adoptee".

For *grounded reasons*, paragraph (2) of the mentioned article stipulates that the guardianship court may approve the adoption even if the age difference between the adoptee and the adopter is less than 18 years, but not less than 16 years. This solution chosen by the Romanian lawmaker seems to be designed to ensure compliance with the provisions of Article 9 of the European Convention on the Adoption of Children in Strasbourg, revised on November 27, 2008.

We must emphasize that the courts have decided that the advanced age of the adopter would not be the one that would withstand adoption, but the age corroborated with other elements *de facto*, in particular the general, physical and mental state of the person concerned and the foreseeable evolution of these parameters, considering that the adoption must be carried out in the best interests of the child (Florian 2018, 486). For example, as it has been decided in a case, "*the approval of the adoption may be refused in those exceptional circumstances, undoubtedly proven, in which the advanced age of the adopter constitutes an obstacle for the fulfillment of the purpose of the adoption, namely the satisfaction of the best interest of the adoptee".* (Supreme Court of Justice, Civil Section, decision no. 578/1992, in "Law", no. 2/1993, p. 68). In another case, the supreme court decided that "*the decision of the lower court to accept the adoption of a minor of only 6 years old by an 84-year-old adopter, who died within 2 months as of adoption, and with an income of only 300 lei per month, is groundless and illegal*" (Supreme Court of Justice, Civil Section, decision no. 144/1985, 1986, 65).

Full capacity to exercise

As I have mentioned before, only persons who have *full exercise capacity* can adopt. Therefore, "*the minor and the persons under judicial disability cannot adopt*".

The full exercise capacity is defined by art. 37 C. civ., as "the person's ability to conclude alone civil legal acts" and begins on the date when the person becomes a major. In Romania, a person becomes of age when he or she reaches the age of 18 (art. 38 Civil Code).

Also, according to article 39 paragraph (1) of the Civil Code, the minor can acquire, *through marriage*, the full exercise capacity, and if the marriage is canceled, the minor who was of good faith at the conclusion of the marriage retains the full capacity of exercise [art. 39 par.(2) Civ. Code].

For *grounded reasons*, in Article 40 of the Civil Code, the possibility is provided that the guardianship court *may recognize* the full capacity of exercise to the minor who has reached the age of 16 years. It is the so-called "*anticipated exercise capacity*" (Moloman 2012, 63). For this purpose, the parents or guardians of the minor will also be listened to, taking, when appropriate, the opinion of the family council.

Moral and material aptitude to adopt

According to art. 461 paragraph (1) Civ. Code and art. 13 paragraph (1) of Law no. 273/2004, republished, the adopter or the adoptive family must fulfill the *moral guarantees* and the *material conditions* necessary for the child's growth, education and harmonious development.

The fulfillment of these guarantees and conditions, as well as the existence of the parental skills is certified by the competent authorities by issuing, according to art. 18 paragraph (5) of Law no. 273/2004, republished, a *certificate of a person or family able to adopt*, on the occasion of the *evaluation* performed according to the provisions of this law. The phrase "*competent authorities*" means the General Directorate of Social Assistance and Child Protection (D.G.A.S.P.C.) from the domicile of the adopter or the adoptive family.

The law also establishes the cases in which obtaining the certificate is not required. Thus, art. 26 of Law no. 273/2004, republished, establishes that the obtaining of the certificate *is not necessary:* a) for the adoption of the person who has acquired full capacity of exercise; b) for the adoption of the child by the spouse of the natural or adoptive parent.

The evaluation of the adopter or the adoptive family is carried out by specialists within the D.G.A.S.P.C.) from the applicants' domicile and represents the process by which the identification of the parental skills is performed, the fulfillment of the *moral guarantees* and the *material conditions* of the adopter or the adoptive family is analyzed, as well as their preparation for undertaking, in full knowledge, the role of parent. With this evaluation, the *psychological, social and medical characteristics* of the other family members or other persons living together with the applicant are going to be analyzed too, as well as *their opinion on the adoption* (art. 18 paragraph 1 and 2 of Law no. 273/2004, republished).

For example, during the psychological evaluation of a family who wished to adopt a minor, it was found that the applicants suffer from "*emotional instability and dysfunctional attitudes, intellectual capacity characterized by slow ideals, rigid and concrete thinking, irrational, negative thinking, fact for which specialized psychiatric investigations, support from specialists qualified in counseling and/or psychological therapy were recommended*" (Cluj Court of Appeal, Civil section of work and social insurance, minors and family, decision no. 4/2007, *beside* Frențiu 2012, 577).

Also, when evaluating the moral guarantees and the material conditions, as well as the parental abilities of the adopter or the adoptive family, evaluation that will be carried out on the basis of their request by the directorate from their domicile or by the private bodies authorized to carry out activities within the internal adoption procedure, the following aspects, stipulated in art. 18 paragraph (3) of Law no. 273 / 2004, republished will also be taken into account: personality and health status of the adopter or adoptive family, family life, living conditions, aptitude for raising and educating a child; the economic situation of the person/family, analyzed from the perspective of the sources of income, of their continuity, as well as of the expenses of the person/family; the reasons why the adopter or adoptive family wants to adopt; the reasons why, if only one of the two spouses requests to adopt a child, the other spouse does not associate with the request; impediments of any kind relevant to the capacity to adopt.

For example, in a case that had as its object the annulment of the provision regarding the non-issuance of the certificate of adoptive person issued by the General Directorate of social assistance and the protection of the child Iasi (D.G.A.S.P.C), the court held that "the claimant lodged a petition to D.G.A.S.P.C. *Iasi by which he applied for his certification as an adoptive person, wishing to adopt a child between the ages of 10-15 years, preferably male, healthy* (...).

It follows from the final evaluation report prepared by the Adoption and Post-Adoption Department, that the claimant does not have the socio-psycho-material factors needed to raise and care for a motivated child of advanced age - 74 years, lack of a female figure, lack of resources/support, lack the distribution of responsibilities (housekeeping, house and household activities), which will determine the tendency to share such kind of tasks with the child, low interest to the specific needs of the child, unrealistic expectations and difficulties of accepting the "real" child, the child's perspective being idealized , reduced ability to adapt to challenging or stressful life contexts and to manage more difficult problems, the impossibility of providing predictability, the safety to a child.

As compared to all those held, the court finds that the decision not to grant the certificate of adoptive person is grounded and legal, the action being groundless" (Iași District Court, Civil Sentence no. 1633 (2017).

At the same time, the law establishes, in art. 7 paragraph (1) of the Law no. 273/2004, republished, that the person who was definitively convicted for an offense against the person or against the family, committed with intent, as well as for the offense of child pornography and drug trafficking or precursor offenses *cannot adopt*. Also, according to par. (2) of the same article, the person or family whose child benefits from a special protection measure or who is deprived of parental rights cannot adopt.

The prohibition to adopt, applies also to people who want to adopt alone, whose spouses are mentally ill, have a mental disability or are in one of the situations provided in par. (1) and (2) of art. 7 of Law no. 273/2004, republished. At the same time, in article 462 paragraph (3) of the Civil Code, it is expressly stipulated that two persons of the same sex cannot adopt together only if they are husband and wife, but in Romania, the law prohibits the marriage between two persons of the same sex.

Adopter's consent

Based on art. 463 paragraph (1) letter c) Civ. Code, for the approval of the adoption, *the consent of the adopter or the adoptive family is mandatory*, if they adopt together. The consent to the adoption represents a manifestation of will given by a married, unmarried person or both spouses together, before the court, together with the settlement of the petition for approval of the adoption, on the grounds of art. 16 of Law no. 273/2004, republished (Moloman 2018, 237-256).

As provided in art. 470 paragraph (1) of the Civil Code, following the approval of the adoption, the filiation connection between the adopter and the adoptee is established, with all the consequences arising there from. Once the adoption is finalized, the relations of kinship cease between the adoptee and his/her descendants, on the one hand, and the natural parents and their relatives, on the other hand (art. 470 paragraph (2) of the Civil Code).

In order to be valid, the consent given before the courts regarding the adoption, must cumulatively fulfill several conditions: it must come from a person with discernment; be expressed with the intention of producing legal effects; to be externalized; not to be altered by any defect of consent (error on the identity of the adopter, misrepresentation and violence) (Drăghici 2013, 287).

The consent of the adopter's spouse

According to art. 463 paragraph (1) letter d) thesis I Civ. Code, if the person who wishes to adopt is married, *the consent of his/her spouse is also mandatory*. As shown in the specialized literature (Avram 2016, 436), this constitutes a "*consent of non-suitability*" to adoption by the other spouse and is meant to guarantee that the adoption will not destabilize the family life of the spouses and thus the child will grow up in a favorable family environment.

The consent of the adopter's spouse is given before the court (see Bodoaşcă 2018, 409-418), together with the resolution of the application for approval of the adoption and "*it is*

necessary even if the spouses are separated de facto" (Florian 2007, 168). It must be emphasized that "*by expressing consent, that spouse does not become an adopter*" (Moloman 2016, 626).

The consent of the spouse of the adopting person is not necessary, in case the lack of discernment makes it impossible for him/her to manifest his/her will (art. 463 paragraph (1) letter d) thesis II of the Civil Code).

Finally, we must mention that in accordance with the provisions of art. 463 paragraph (2) of the Civil Code, *the consent* given in considering the *promise* or the *actual obtaining of some benefits*, regardless the nature thereof, *is not valid*. If the consent is given in consideration of the promise or obtaining of benefits regardless the nature thereof, the sanction, although not expressly provided by law, is the *absolute nullity* of the adoption for fictitiousness because it was concluded for a purpose other than that of protecting the best interest of the child (Florian 2012, 507). For example, in a case that aimed to establish the nullity of adoption, the court found that "*the adoption of the major person was occasioned by the need for the adoptee to acquire another name, an identity that would allow him/her to travel abroad, in Germany, from where he/she was previously expelled, being raised exclusively by natural parents*" (Bistrița-Năsăud Court, Civil Section I, Judgment no. 60 / CC of June 14, 2012, *apud* Frențiu 2013, 228-231).

Conclusions

Currently, the domestic law on adoption, this especially important legal institution within the family law, is much simplified compared to the legislation prior to 2011, when the current Civil Code came into force, and in recent years all the normative acts in this area have undergone significant amendments, supplements and updates, in accordance with all the international treaties to which Romania is a party, as well as with the European Union legislation.

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RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
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Assessing Pure Water for the World's Menstrual Hygiene Management Program in Honduran Schools

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ABSTRACT: Pure Water for the World's Menstrual Hygiene Management program aims at improving knowledge of menstrual health. The objective of this study is to evaluate the effectiveness of the MHM program in schools for menstruating girls, non-menstruating girls, boys, and teachers. Surveys and focus groups conducted in Trojes community schools have concluded that PWW's MHM program has improved knowledge amongst teachers and menstruating girls. The knowledge of school-aged boys and non-menstruating girls though can still be improved. Of the 209 students surveyed, 49% reported that they had knowledge of the menstrual cycle and menstrual hygiene. Although issues such as response bias could have played a role in this large proportion of students without knowledge of menstruation, the number of students who benefited from the education and training has increased. It is recommended that the teachers use a pre-/post-test system to track the results of the MHM programs in their classrooms. By 6th grade, the students should be receiving lessons on menstruation, sexual health, puberty, and other topics amongst all genders. We recommend that PWW creates a partnership with an organization focused on nutrition to create a program in the schools geared towards menstruating girls, as study results indicate that this is an area of concern. PWW should work more closely with the Ministry of Health to ensure that the importance of menstrual hygiene and sexual health are relayed to the teachers as a way to de-stigmatize menstruation and empower teachers to provide accurate information.

KEYWORDS: menstrual hygiene, development, education, nonprofit, nutrition

Introduction

Pure Water for the World (PWW) is a 501(c)(3) WASH nonprofit with offices in the United States of America, Honduras, and Haiti. PWW, as a nonprofit, began with a focus on access to clean water and teaching proper hygiene and sanitation in 1999. In January of 2015, a Pure Water for the World volunteer released a report evaluating the need for Menstrual Hygiene Management (MHM) in several communities throughout the municipality of Trojes in Honduras and found that the need was high. (Reed 2015) Trojes is located in a remote mountainous region in South-East Honduras in the department of El Paraiso. The municipality has over 300 communities dispersed in the mountains around the main town. Coffee farming and cattle raising are the main activities of the people in the communities of Trojes. Today, PWW has reached 147 of the communities of Trojes with WASH programs, including some that it takes over a couple of hours to reach.

Since 2016, PWW has incorporated menstrual hygiene education into the teachers' workshops and training programs. PWW helps to build gender-specific, private latrines, and hand washing stations in order to reduce the physical barriers girls face while menstruating at school. (See photos 1-4 in the appendix.) PWW trains teachers on the specifics of menstruating and the menstrual cycle, and how to talk to their students about it (boys and girls). PWW also urges schools to make hygiene kits available, which include sanitary pads, toilet paper, and medicine for menstrual pain. PWW employees and volunteers provide MHM training to teachers in various communities throughout the municipality of Trojes in Honduras. This training aims to help teachers integrate WASH topics and programs into their annual lesson plans.

The study conducted by a PWW volunteer in 2015 took place in five different communities surrounding Trojes. These five communities had not received MHM training from PWW. As the topic of menstrual hygiene had not yet been addressed with the members of these communities, it can provide one explanation for the necessity of an MHM program. In this most recent study, the

2019 study, most of the children surveyed *had* received MHM lessons from their trained teachers. These teachers had received training from either PWW, another nonprofit, or the Secretary of Education in Trojes.

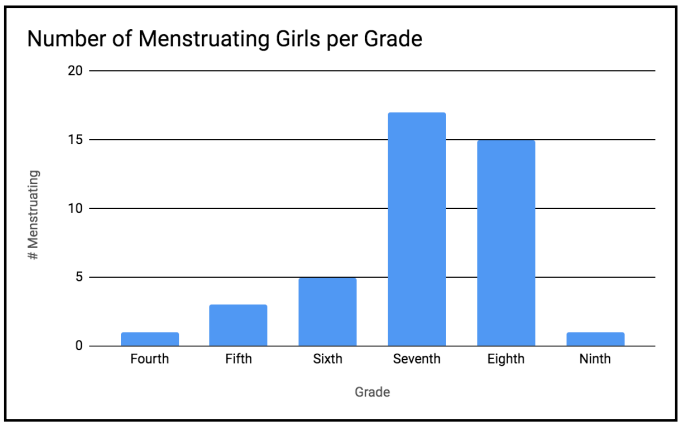
Before proceeding through this study, it is both necessary and relevant to understand that the topic of menstrual hygiene is hard to address, especially with young children and especially within a culture that displays discomfort with the topic. These truths could have affected the accuracy of the results. Additionally, when conducting research on menstrual hygiene in developing countries, it is important to remember the inadequacies that also exist amongst menstrual hygiene education in developed countries.

Survey Methods

Surveys were administered via tablets to school children, teachers, and medical professionals in four different communities. The selection criteria used to determine which schools would be surveyed included schools in which there are menstruating students who have received the MHM workshop, schools wherein the teachers have received the water, sanitation, and hygiene workshop (WASH), and schools in communities that are currently geographically accessible by foot, truck, or motorbike.

The total number of surveyed students included 109 school aged girls, 100 school aged boys, two medical professionals, and 17 teachers. The grade with the largest number of menstruating girls was seventh grade and the grade with the least number of menstruating girls was in fourth grade. In total, 45 of the girls surveyed were menstruating and 64 were not. The school children ranged in age from eight years old to 17 years old. In each school, fourth through ninth graders were surveyed. The surveys were administered privately to the best of the surveyor's ability and when possible, children were paired with a surveyor of the same gender. Four separate schools participated in the surveys: Escuela Fredy Morazán in Trojes, C.E.B. Dr. Roberto Suazo Cordova in Rio Arriba, C.E.B. Alvaro Contreras in Tapalchi, and C.E.B. Augusto C. Coello in El Porvenir de La Joya.

Table 1. Number of Menstruating Girls per Grade



The two medical professionals surveyed worked in health centers in Trojes and Rio Arriba. These two health centers were geographically accessible and served a large proportion of the students who took part in the surveys. The students were asked between 11 and 38 questions depending on their answers to certain questions. The surveys took between 3 and 15 minutes for each student.

To test the success of PWW's MHM programs, specific questions needed to be asked. Like the 2015 study, boys and girls were asked what they knew about menstruation and the menstrual cycle and who they learned that information from. Both genders were asked to list reasons why they miss school. The girls, specifically, were asked if they were menstruating and at what age they started. If the girls stated that they were in fact menstruating, they were asked another set of questions regarding

their diet, their pain, and what it was like for them to menstruate while in school. Each menstruating girl was also asked what else they felt would help them in school.
The teachers were asked various questions about their knowledge of menstruation/menstrual cycle and whether they have taught the students on the topic. Surveyors also examined the latrines, hand- washing stations, and waste containers without the teachers present. The medical professionals were asked mostly for data regarding the number of girls that have visited the hospital and whether any of these girls visited for reasons related to menstruation.

Table 2. Knowledge of Menstruation

	Teachers	**Medical Professionals**	**Menstruating Girls**	**Non-menstruating School Aged Girls**	**School aged- Boys**
Knowledge of Menstruation	X	X	X	X	X
Knowledge of Menstrual Cycle	X	X	X	X	X
Reasons for Missing Class	X	X	X		
Age of Menarche	X				
Dietary Changes	X				
Menstrual pain	X	X			
Training on MHM?	X	X			
Taught MHM?	X	X			
Infrastructure	X				
# of girls under 17 who visited the medical centers	X				
# of girls under 17 with concerns related to menstruation	X				

Limitations

Before the findings can be discussed, it is important to mention the challenges that arose when gathering data. These issues could have played a prominent role in the data we collected and could have potentially skewed the results of the study. In Honduras, like many countries around the world, it is quite taboo to openly discuss menstruation and menstrual hygiene. This fact alone was the greatest issue in this study and could have contributed to response bias.

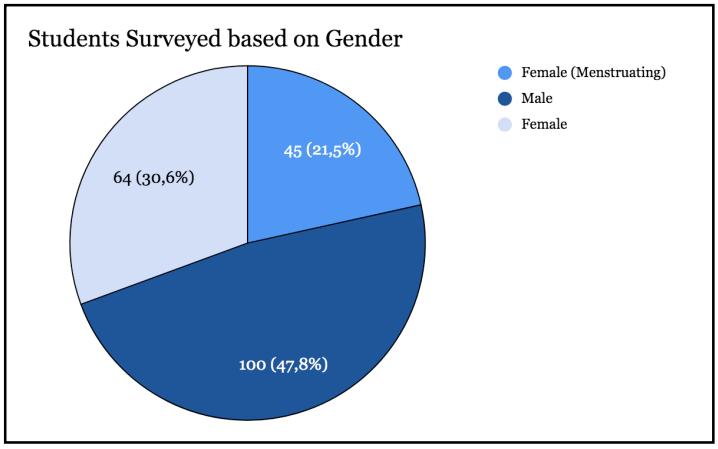
The two groups that were found to be the most uncomfortable talking about menstruation were the school-aged boys as well as the school-aged girls who had not yet begun menstruating. While many of the students, especially the boys, had in fact received education on menstruation, they would report that they knew had no knowledge on the topic during the survey while providing physical cues of discomfort (shrinking into their chairs, giggling, not making eye

contact with the surveyor.) An occurrence that aided to the discomfort was the proximity of the other school children. Often, large groups of children would gather during the survey process causing the child being surveyed to grow uncomfortable. Additionally, the students would gather in groups between surveys and talk with those who had not yet been surveyed providing them with "the answers". This could have distorted the accuracy of our results. Finally, the two main surveyors of the study were foreigners (citizens of the United States of America and France). Therefore, the school children could have had difficulties properly understanding the questions or the surveyors could have difficulties understanding the answers.

Findings

As stated previously, the total number of surveyed students included 109 school aged girls and 100 school aged boys. In total, 45 of the girls surveyed were menstruating and 64 were not. The ages of the students surveyed ranged between three years of age and 17 years of age.

Table 3. Students Surveyed Based on Gender



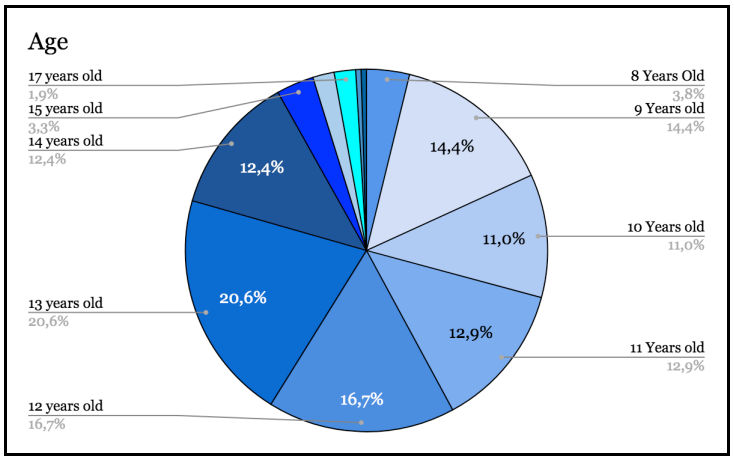
The male students were more often than not very uncomfortable talking about menstruation even if those students were paired with a male surveyor. Of the 100 boys surveyed, 48 reported having no knowledge of menstruation and 86 reported having no knowledge of the menstrual cycle. Twelve boys said they knew what menstruation was but would not provide further detail and three reported knowing about the menstrual cycle, but could not or would not provide further detail. Of those that reported knowing about menstruation and the menstrual cycle, they noted information regarding blood, pain, that it happens only to women, and it happens once a month. Three of the boys knew that menstruation had something to do with development and that menarche is often around 12 or 13 years old. Three male students had what we considered advanced knowledge of menstruation for their age group (11-15) and were able to briefly discuss menopause, sexual consent, and sexually transmitted diseases.

It was also apparent that the younger female students (11 and younger) were mostly uncomfortable talking about menstruation and the menstrual cycle. This discomfort was especially apparent amongst the girls who also reported that they had not yet started menstruating. The older girls (12 and older) and the girls who had started menstruating appeared more comfortable during the survey.

Of the 49 female students who reported knowing about menstruation, their responses varied. Most reported knowing that it only happened to women and that the process involved blood and often some pain. Five of the 49 girls knew that menstruation was a part of development. Other responses included, "dizziness," "can be irregular", "must use sanitary pads", "there are things you shouldn't eat." One girl reported that once her friends started menstruating, they "didn't want to play anymore."

One of the most important datasets we collected was in regards to the dietary changes of the female students. Of the 44 girls who had already begun menstruating, 88.6% changed their diets during menstruation. During this time, the girls reported that they ceased to eat various food items including: mantequilla (a sour cream-type spread), eggs, avocados, beans, fruits (limes and mangoes mostly), rice, milk, sardines, chili, anything acidic, and coffee. For reference, a common meal in Honduras includes tortillas, mantequilla, beans, eggs, rice, and milk or coffee, which indicates that many girls were significantly altering and limiting their diet during menstruation. When asked why they were changing their diets, most of the girls responded that their mothers had told them to (18 percent). A large portion of the girls, 56 percent, simply stated that "it was bad" to eat those items during their period but did not address who gave them this information. Many said that it would cause pain, stop the bleeding, increase the bleeding, cause infections, or change the consistency of their blood and discharge.

Table 4. Ages of Students Surveyed



One final finding amongst the student surveys was in regards to school attendance. Only 21 percent of menstruating girls reported missing school due to menstruation. Fifty-seven percent of male students reported missing class during the school year and 58.5 percent of female students reported missing class during the school year.

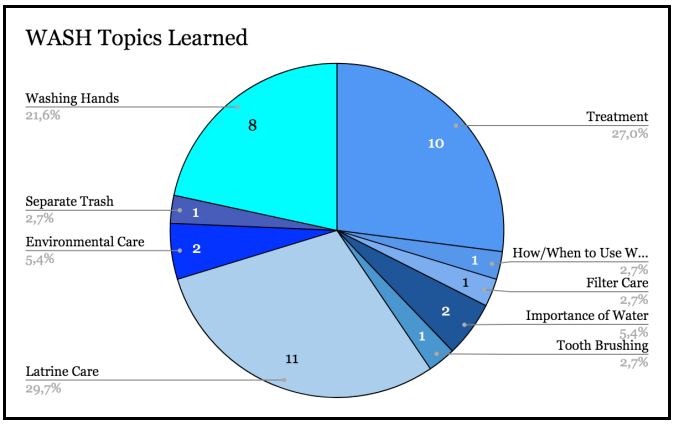
Five of the students surveyed stated that their absences were because they "did not know when class was." During the time frame that these surveys were taking place, there was a country-wide protest occurring. Protests began in May 2019 over concern about the current Honduran President, Juan Orlando Hernandez and the potential privatization of education and health care in the country. (Palencia 2019) Many teachers in Trojes and the surrounding communities were traveling to Tegucigalpa, a city 173.8 kilometers away, to participate in the protests. Due to this occurrence, class was often canceled as there were not enough teachers available to teach.

At each of the four community schools, the teachers were also surveyed. Of the 17 teachers surveyed, 13 teachers had received WASH training from PWW. Three reported receiving WASH training from either the Secretary of Education or a different Non-Governmental Organization (NGO). Only one teacher, an intern, reported that she had not received WASH training. As per WASH training, teachers receive education on proper bodily hygiene during menstruation and otherwise. They are taught how to make disposable cloth sanitary pads and how to dispose of garbage. It is also recommended that teachers keep sanitary pads, toilet paper, and pain medication in their classrooms.

The teachers were asked what WASH topics they had learned and then, specifically, what they had learned about menstrual hygiene and the menstrual cycle. In regards to WASH topics, the teachers discussed latrine care, hand washing practices, environmental care (like separating trash), tooth brushing, filter care, and the importance of water. When asked specifically about

their knowledge of menstrual hygiene and the menstrual cycle, teachers discussed topics about the length and frequencies of menstruation, bleeding, ovaries, hormones and hormonal changes, sanitary pad usage, menopause, and the idea that it is a natural occurrence.

Table 5. WASH Topics Learned by Teachers



The teachers were surveyed about their garbage disposal habits at the school building as well. Five of the teachers reported that they burned all of the garbage which is a common practice in Honduras. Two teachers reported that they threw the trash in a pile away from the school. Two teachers reported that they would bury all of the garbage and nine teachers reported that they would also bury the garbage but would first separate it into organic and inorganic materials.

Finally, two doctors from Trojes and Rio Arriba were surveyed to gain a broader understanding of menstrual hygiene education and the types of health issues that are occurring regarding menstruation. Of the two health centers surveyed, there were no gynecologists.

Both of the doctors surveyed had given talks on menstrual hygiene by giving speeches. However, the students were not separated by age or gender during these lessons. One of the doctors reported using manuals on adolescence. In the past year, 276 girls under the age of 17 had visited the hospital in Rio Arriba and 12 of those girls had undergone a gynecological exam. General physicians would perform this task as there were not gynecologists in the health centers, as mentioned above. In Trojes, 648 girls under the age of 17 had visited the hospital and 492 had undergone a gynecological exam. In total (both health centers combined), 53 girls reported illnesses or issues related to menstruation.

These illnesses/issues included: heavy bleeding, excessive pain, irregular periods, excessive vaginal discharge, and a lack of knowledge about menstruation. In addition, girls under the age of 17 visited these hospitals to discuss family planning, for pregnancy, to give birth, and for routine Papanicolaou tests (Pap smears).

Recommendations

From the baseline study in 2015, knowledge of menstruation, menstrual hygiene, and the menstrual cycle has improved amongst the school children. Of the 209 students surveyed, 49% reported that they had knowledge of the menstrual cycle, menstrual hygiene or menstruation. Based on these findings, several recommendations have been determined.

The best way to track the progress of the MHM program in Honduran schools is for the teachers to use a pretest/ post-test system. At the beginning of each school year, teachers should conduct a pre-test, that is not graded, to see what level of knowledge the students have about certain topics related to menstruation, hygiene, puberty, and sexual health. The topics would depend on the age and grade of the students. At the end of the school year, after students have received MHM training from PWW and their teachers, the teachers should conduct a post-test to

see if the students report learning more about these topics throughout the year. Additionally, the teachers should receive a similar type of evaluation from PWW after they receive MHM training to evaluate how much information was understood and learned.

Currently, PWW employees separate boys and girls when discussing topics of menstruation. While this may aid learning at a younger age, it is believed that in later grades, the genders should be combined during menstruation related lessons. Based on the results, it has been concluded that the best practice is to teach menstruation and sexual health related classes every year beginning in third grade. In the younger grades (3rd-5th grade), topics should include hygiene, puberty, development, and brief discussions of menstruation. As the students approach their teenage years (5th-9th grade), the students should no longer be separated by gender and the topics should turn more towards in depth menstruation lessons, sexual health (STDs), birth control (medicinal or barrier methods), pregnancy, and consent.

More consistent communication from an early age about topics related to menstruation and sexual health will, hopefully, relieve the tension around talking about these topics. More consistent communication will aid these topics in becoming less taboo and create a more open dialogue.

The dietary changes that 88.6% of menstruating girls reported making was concerning given the already limited food supply in many households in the communities surrounding Trojes. It is recommended that PWW identifies and creates a partnership with an organization focused on nutrition in order to include a nutrition program in the schools geared towards school-aged girls who are menstruating. It is important that these students are given factual information regarding food that can and should be consumed during menstruation. It is important that the young girls who are menstruating are made aware that their nutrition should not change during their menstrual cycle. (Jahangir 2018) In future studies, more information needs to be gathered on the real reasons girls are told not to eat certain foods during their menstrual cycle and where these reasons and beliefs originated from, acknowledging the strong cultural influence.

The WASH training dedicated to teachers tackles various topics related to water, sanitation, menstrual hygiene and general hygiene. However, it is recommended that PWW place further focus on the topic of menstrual hygiene during the training. Health personnel that work with the communities should also receive training on menstrual hygiene in order to have them replicate the training with communities members.

The final recommendation is in regards to Honduras' educational and health policy. In 2019, PWW created an agreement with the Ministry of Education that aims at working towards incorporating MHM as part of an area of study. It is of utmost importance that the Ministry of Education but also the Ministry of Health collaborate and speak to schools about the importance of incorporating MHM programs into annual school curriculums.

For future studies, a list of questions has been developed that should have been asked or could be useful during a followup study. The questions are as follows: What are the dropout rates in local schools? What are the teen pregnancy rates in Trojes? What are the teen pregnancy rates in Tegucigalpa? Are the teen pregnancy rates lower in the communities PWW has worked in? What are the migration rates from Trojes? What are the migration rates from Tegucigalpa? What are the rates of internal migration? What are the reasons for migration?

Future researchers should meet with the parents of the students surveyed to determine the knowledge level of the parents about menstruation.These questions could be used in a study conducted in the same five communities in which the 2015 study was conducted. This would allow for PWW to evaluate the evolution of the MHM program in communities that have received training.

Conclusion

Approximately three years after Pure Water for the World introduced a Menstrual Hygiene Management program in schools in and around Trojes, Honduras, the results have revealed both

successes and non-achievements. Similar to the 2015 study, findings show that the girls have more knowledge than they had before the introduction of the MHM program but there are still inadequacies and fallacies in the information they are receiving at home and from their peers.

The null hypothesis regarding school-aged boys and school-aged girls who are not menstruating was accepted. These two groups displayed large amounts of discomfort and incomprehension regarding menstruation. In contrast, the study failed to accept the null hypotheses regarding infrastructure, teachers, and menstruating school-aged girls. The study instead found that the MHM programs with these groups were successful.

Young girls need further education regarding their dietary changes and the normalcy of the menstrual cycle. Similarly, young boys drastically require further education to remove the stigma and discomfort around talking about and learning about menstruation. This will require a change in the structure of the MHM education they are receiving in school. It will also be beneficial for the MHM program to include education for the student's parents to ensure the students are receiving accurate information at home.

MHM programs should begin at an early grade level (around third or fourth grade) and continue into the students pubescent years, up until the graduation of each student. Consistent education surrounding menstruation and sexual health will present the information as 'normal'. Additionally, involvement from the Ministry of Health and the Ministry of Education, collectively, will further enforce the importance of health education for young students.

Based on the information collected from the baseline study in 2015, PWW has improved the accessibility to and knowledge of menstrual health education in Trojes, Honduras. However, to thoroughly educate and assist the population in Trojes and the surrounding communities, there are still many changes that need to be made to the MHM programming. Further research and application of the above stated recommendations will help to better serve the students and the overall population of this mountain community.

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The Domestic Violence in Romania and Methods for Dealing with the Phenomenon

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ABSTRACT: Domestic violence represents a common problem in society nowadays. In Romania, this issue tends to expand from one generation to another, although the methods for dealing with this current are various in number and complexity, with special reference to the psychological ones. The central factors which give rise to this type of aggressive behaviors are the following: low financial status of the families, social status differences, educational gaps, toxic characters and so on. Within the variety of methods for tackling with the debated subject we can name the legal sanctions applied by the state with the help of the coercive force, the psychotherapy sessions and collective therapy. The article is proposing an extensive analysis in regards to the domestic violence. The paperwork will describe the current legislation of Romania for this issue, the roots of this problem and ways of countering it, all of this while taking into consideration the present social and economic development of the state. In the same manner, it is necessary to observe the reasons why the victims refuse to address their situations to the competent authorities.

KEYWORDS: domestic violence, the coercive force of the state, concept, definition, tackling, victim, psychotherapy, material situation

The origins and effects of violent behavior in society

In our current society violence is, without a doubt, condemned and condemnable because it is born from psychological reasons. Upon looking into these motifs from a socio-economical perspective, we can deduct that they represent a danger for the organization and the order of the general collective. In the same manner, they have a negative impact on the rights and freedoms of the people, attributes which are guaranteed by the laws and the Constitution (The Constitution of Romania, The European Convention for Human Rights, The Chart of Fundamental Right of the European Union, Edition 10th, 2018, Title II, Article 15, alignment 1).

Violent conducts, however they may be manifested and regardless of the targets (other people, objects, animals), originate from a psychological realm based on different needs such as the protection of he/she`s property, the actions of defending physical integrity or life in general or the protection of moral and cultural beliefs. We can safely say that this foundation of needs have been present since the dawn of our species.

In order to exist, every living creature requires to firstly satisfy its nutritional needs, therefore in the beginning humans were hunters and gatherers. However, the predator could sometimes become the prey and this led to the necessity of self-defense against animals, natural catastrophes or other humans. The individual had to develop several behavior inclined towards aggression and violence in order keep the dangers at a distance. This conduct evolved into the core of existence and survival.

As our civilization evolved on an economic and social plan, the hyper-aggressive archetype lost its reason for existing. It became a toxic element for the objectives which was created to assist in the process of development. Nowadays the state has banned such manifestations in order to preserve social coexistence. The repression is conducted by the institutions through the coercive force of the state (Zlate 2000, 90).

Taking into consideration the above information, we can state that violence is a dangerous type of conduct which consists of threats with a certain negative action or, based on each case, it can be composed of unlawful and immoral acts, and the target is usually represented by either a

physical person or a family member of that subject of law. Also, in the sphere of potential targets we can include a material object, an entire legal entity (for example, company buildings selected for terrorist acts). The main objective of the illegal act is to create a state of fear for the victim in order for him/her to do, not do a certain operation which could have been completed in the absence of the constrain. In the same time, from this consequence of bringing another person into a state of panic, the aggressor could want to obtain a material benefit or different favors. (Mitrache and Mitrache 2014, 190).

The concept of domestic violence and the factors which can create it

With reference to the domestic violence, it is defined by the current legal stipulations in Romania as any violent action or non-action on a physical, sexual, psychological, economic, social or spiritual term committed with intention which is completed in a family climate or between two husbands as well as between two ex-partners, being irrelevant if the aggressor lives or has lived in the past with the victim (Law No. 174/2018 which modifies and completes Law No. 217/2003 for the prevention and tackling of the domestic violence, Article no. 3). In accordance with the definition, the domestic violence has the following elements:

The psychological element consists in the propagation of a state of fear to the victim or to the members of the targets family with the purpose of imposing the authors will and personal domination. This can be done by any methods.

The physical element includes the potential injuries inflicted to the victim's body or to the bodies of his/hers closest friends/family members. Based on this line of thinking, sexual and other degrading activities can be brought into this component.

The economic element is formed around the interdiction addressed to the target or his/her family in regards of performing any form of entrepreneurial activity.

The social element refers to the imposed isolation asked from the aggressed subject of law. This isolation can have the main requirement of not making any contacts with friends, family members or other determined persons.

The spiritual element assumes the discredit of morally and metaphysical achievements, due to ethnic, cultural or religious reasons.

Factors which can influence the creation of violence are many. However, some of them present a higher importance value in the current social context. In this way, we can talk about the poor financial status of a family, the different economic position of a life partner, the lack of education for one husband or both, or the discrepancy between their cultural and spiritual beliefs. All of these componence serve in generating a domestic violence episode sooner or later, if left undealt with.

Generally, the domestic violence is done by the male husband in order to ensure the control over his wife or his child. Several causes for the toxic actions of the male partner can be: jealousy (resulted from a low-self-esteem or the unaccepted current social status); lessons not taken into consideration from the elder members of the family; excessive consumption of drugs and alcohol (Mitrofan 992, 78).

Methods of tackling with domestic violence

By methods of tackling we can understand the means which offer the possibility of redemption to the persons which had to suffer from these kind behaviors or the ones who committed them. In other terms, it is a way of rebalancing the social reports and a direction to be followed in order to get rid of the violence. In worst case scenarios, the methods can be punishments applied according to the legal norms with the use or the coercive power.

In Romania, solutions for dealing with the phenomenon are the sessions of collective therapy or restricted psychotherapy meeting which serve to defuse the tension accumulated between the life partners.

Collective therapy assumes the participation of several individuals (groups or families) in a restricted space, placing them in a circle in order for all of them to be visible by the other members and to uphold a feeling of equality. Each patient has the right to take the word when his turn arrives and he can share the experience, feelings or pain through which he/she is going. After the problem is exposed, everyone tries to come up with advices or solutions.

Psychotherapy meetings represents another method for prevention or treatments by which a person, a couple or a family asks to be helped by a psychotherapist. This is done in order to avoid any possible bad scenarios and to solve any current issues.

Conventional treatments cannot solve most of the domestic violence cases due the gravity of the actions already completed and unfortunately, most of the time the subjects having to appeal to the law enforcing institutions. Possible sanctions as a result of the intervention of the state in the matter can be from the civil law domain (divorce) or the criminal law part (restriction orders, sentences to prison) (Popa 2008, 236).

Dealing with domestic violence with the help of criminal law

The Romanian criminal law makes a distinction between the juridical object and the material one in regards of the crime defined as "family violence."

The juridical object is composed from a central special object – "the life and the social relations in accordance to the right to live of the family member, respectively the physical integrity or health of the family member and the social relations in accordance to it" (Udroiu 2018, 84) and a secondary one – "social relations regarding good coexistence within the family" (Udroiu 2018, 84). The material object consists of the" body of the injured person who has the status of an alive family member" (Udroiu 2018, 84).

Romania's criminal law stipulates several sanctions against family violence, proportional to the gravity of the illegal act consumed. In this manner, killing a family member is punished by a prison sentence from 10 to 25 years and for the same crime done in the aggravated form the duration is changed to life sentence or to 15 to 31 years in jail (New Criminal Code. New Criminal Procedural Code, 2014, The Special Part, Title I, Chapter I, Article 188 – 189).

Simply hitting a family member, excluding self-defense cases, is sanctioned by 3 months to 2 years of prison (New Criminal Code. New Criminal Procedural Code, 2014, The Special Part, Title I, Chapter II, Article 193, alignment 1).

Injuries done to the body of the victim comes with a possible consequence of 2 to 8 years of jail (New Criminal Code. New Criminal Procedural Code, 2014, The Special Part, Title I, Chapter II, Article 194, alignment (1) – (3)).

Not every case represents a domestic violence scenario, some of them are situations in which the offender committed the facts out of necessity to defend his own physical integrity or even his own life of the attacks from a family member (Grădinaru 2018, 12).

Conclusions

In general terms, domestic violence represents a severe social problem which grows from one generation to another and leaves a deep mark on our society`s way of life. It emanates a unpleasant influence over the social relations regardless of their level.

In Romania, due to its geo-historical factors especially the constant invasions and wars for defending the homeland, this issue of violence was present since the formation of the modern state. Lack of educational efficiency helped with the propagation of this phenomenon.

Today, the state has a deep implication the fighting and preventing domestic violence by offering the population conventional methods to recreate and reinforce the social relation in the context of traditional families and also by putting into attention the possibility to make an appeal to the coercive for of the institutions in order to have the criminal law sanctions applied.

Despite all of this, many of the victims choose to endure these unlawful and immoral acts due to either economic causes such as financial sustenance, or because of the fear for the opinions expressed by others. A person can choose to take the abuse also to ensure that he/she or the partner is still present in the life and educational process of a child, although the absence of the abusive parent can prove to be a step forward for the offspring.

Even if the state applies severe sanctions to such toxic behaviors, sanctions which could have a high level efficiency and correctitude, they cannot replace a normal and healthy development of our civilization. This growth can only be the result of diligent and carefully applied education.

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Third Party Logistics and Beyond

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ABSTRACT: A transportation revolution occurred forty years ago with the deregulation of the industry, particularly in the United States. With the deregulation complete, the transportation industry has been slow in developing a total customer satisfaction environment particularly in terms of the industry-wide total-customer package. The bulk of the transportation service offered in the U.S. has not exceeded third-party logistics (3PL). Since our barriers for entry are low and at times non-existent, what roadblocks hamper U.S. transportation companies from developing services that its global competitors already offer its customers? The end game of supply chain logistics is to augment customer value (Bowersox, Closs, Stank, 2000). This paper aims to identify what obstacles have prevented transportation companies from transforming into fifth party logistics (5PL) providers who can ensure optimum customer service by resolving fundamental logistical problems efficiently. The transformation into 4PL or 5PL can help current 3PL transportation and other companies to provide maximum benefits to customers by resolving complex supply chain issues, improving warehouse technology, increasing efficiency in transit times and creating a seamless process through the use of information technology (IT).

KEYWORDS: Supply Chain Management, Logistics, 3PL, 5PL, Transportation, Evolving logistics systems

Introduction

Fierce competition in global markets, the introduction of products with short lifecycles, and the heightened expectations of customers have forced business enterprises to invest in, and focus attention on, the relationships with customers and suppliers (Simchi-Levi et al. 2000). Supply Chain Management (SCM) has become part of the senior management agenda since the 1990s. Executives are becoming aware that the successful coordination, integration and management of key business processes across members of the supply chain will determine the ultimate success of the single enterprise (Van der Vorst 2000). According to Christopher (1998) businesses do not compete as solely autonomous entities, but as supply chains. To assure competitive advantage and improve organizational performance, it is important to manage supply chain effectively (Li, et al. 2006). The increased interest in SCM has been spurred by developments in Information and Communication Technology (ICT) that enable the frequent exchange of huge amounts of information for coordination purposes.

Supply chain management emerged in the early 1980s as companies migrated to thinking about the different forms of integration using IT, EDS, and emerging warehouse technologies. Houlihan (1985) as well Jones and Riley (1985) stated that supply chain management (SCM) was first an integrative approach to the management of material flows from material sources to customers. Currently there are no asset-based or non-asset-based transportation firms that offer fifth-party logistics (5PL) as it is considered a relatively new model by American industry standards. A marginally higher number of companies such as UPS and Deloitte offer fourth-party logistics (4PL). Thus, UPS (asset-based) and Deloitte (non-asset based) can be considered "full service" transportation companies. Previous research has shown that excellence in forming logistics activities and capabilities is associated with superior organizational performance (Lambert & Burduroglo 2000; Lynch, Keller, & Ozment 2000). As a result, customers have rewarded such companies with a healthy financial bottom line. According to Rutner and Langley (2000), the logistics function has long been under pressure to demonstrate its contribution to organizational performance.

Table 1 demonstrates the distinguishing characteristics between the different layers of (x) party-logistics, with 1PL being the simplest logistical chain and 5PL being the most complex in terms of supply chain management. As seen in Table 1, 1PL is a straightforward relationship between the manufacturer and the consumer. On the other hand, 2PL and 3PL, both require tactical relationships with other firms for a manufacturer to connect with the consumer. Both, 4PL and 5PL systems go beyond tactical relationships into the realm of strategic relationships, using extensive technology and information exchange between, among, or within the firms involved in the complex supply chain. The drawbacks are loss of control and relationships with supply chain members. The distinguishing factor for 5PL is that the strategic relationship relies on a strong Information Technology (IT) component (Sangam 2006; Sohail and Al-Abdali 2005).

Table 1. What do different Party Logistics Mean?

X-PL	Implies:
1PL	A manufacturer that delivers its own product to the consumer
2PL	An asset-based transportation company that owns equipment such as UPS or Yellow Transportation Company that works directly with customers internal employees (warehouse personnel).
3PL	An asset-based or non-asset-based company that acts as a broker for the manufacturer or where the shipment originates. This is also a tactical relationship since the 3PL provider works closely with warehouse management.
4PL	A company that performs all supply chain functions, manages and improves the client's supply chain, has few physical assets but has extensive knowledge and technology-based assets such as real time GPS tracking. This is a strategic relationship since it now involves executive level logistic managers within the manufacturer's workforce.
5PL	A company that turns customer's supply chain into a function that is completely driven by technology, has physical assets, possesses extensive knowledge with leading edge technologies. This is a strategic relationship since it now involves executive level logistic managers within the manufacturer's workforce.

Asset-based party logistics companies provide a comprehensive schedule, better pricing, tracking and tracing capabilities such as UPS, XPO Logistics, and Yellow Freight Lines than non-asset-based organizations. A non-asset-based party logistics company is one that does not own or operate tractor trailers, cargo vans, airplanes, ships, or trains such as UNILINK Transportation and C.H. Robinson. A non-asset-based logistics company has a lot of freedom in choosing service providers that can best meet the needs of their customers. There are currently no 5PL service providers in the United States.

Brief History of Logistics

The 1980s was a volatile time in American history. In late 1975, public interest increased in deregulation and became intense thus federal laws changed with the Railroad Revitalization and Regulatory Reform Act, which was passed by the 94th Congress on Feb 5, 1976. Since the deregulation of transportation via the Motor Carrier Act of 1980, American roads have seen an increase in trucking carriers from 20,000 in 1980 to a whopping 1.2 million today. Warehousing companies that exclusively provided storage for the trucking industry expanded their footprint in the whole supply chain and emerged as freight movers. The rise in the number of companies providing both storage and transport services and the advent of information technology created space for third-party logistics companies (Symbia 2019).

In the 1990s, the logistics management industry took off when countries such as China and India opened their economies to a global business and began to attract the interest of companies looking to take advantage of cheap labor and local resources. As a result, the demand for

companies capable of streamlining complex supply chain processes skyrocketed, both domestically and globally. The increase in the number of companies providing third-party logistics (3PL) services led to some companies specializing in niche markets such as frozen food products and construction industries and in offering vehicles and facilities capable of handling the specific needs of the industries (Bookbinder, James & Tan 2002).

Between 2004 and 2008, the use of Information Technology was responsible in adopting its growing footprint towards IT based value-added services (internet-based transportation and logistics markets) in logistics (supplier management systems and supply chain planning). In 2008, web enabled communications and visibility tools were considered highly favored IT services by logistics users, closely followed by warehouse and distribution center management and transportation management and execution. Logistics players have many concerns in deciding to adopt a technology. One example of this is the Radio Frequency Identification Technology (RFID) which is quite unique and is widely considered by many logistics players. In 2005 and 2006, RFID was a technology with the highest future expectations. However, the 3PL growth analysis in 2007 noted that these lofty expectations were not fulfilled and there was no growth in actual use from the figures for 2005 and 2006 (Langley 2010). In short, due to its infancy, too many problems were not addressed, and the idea was dropped.

A. Creating Customer Value

Radical advances in managing supply chains stem from electronic commerce, notably in transportation and distribution, now widely adopted (Hosie et al. 2012). There were four (4) emerging trends in the logistics industry as early as the 1990s, as presented by Langley & Holcomb (1992). The first, and perhaps the most significant trend was the growing recognition of logistics as a means of creating customer value even though the concept of logistics was still unfamiliar in the early and middle 1980s. While the understanding was not clear, it was more frequently acknowledged by companies in the 1990s. While the logistics literature certainly lends substance to the statement there is increasing number of initiatives being taken by business firms to capitalize on the customer already created by logistics. La Londe & Masters (1994) have described the implementation of powerful and inexpensive technology as the factor that has had the greatest positive influence on the operation of logistics systems in the 1990s. The second trend in the 1990s was that firms were directing greater resources towards logistics and the senior logistics executive, a relatively new position, was becoming more visible and involved on a firm-wide basis (Langley & Halcomb 1992). The third trend was directed towards the integrative aspects of logistics and the fact that the length and consistency of the customers "order cycle" was emerging as a key concern of firm-wide interests. In effect, the integrative aspects of logistics qualified this area as a major contributor to the creation of customer value (Langley & Halcomb 1992). The fourth emerging trend in the 1990s was the development of partnership arrangements with suppliers, customers, other channel members, and external third parties in the interest of achieving desired results in logistics. Langley et al. (1992) argued that the four observations had become "wholistic" and proved that expanded logistics must be adopted by firms because it was one where the "win-win" paradigm was recognized as being valid.

B. IT Integration

In 2008, web-enabled communications and visibility tools were considered highly favored IT services by logistics users, closely followed by warehouse and distribution center management and transportation management and execution (Hosie, Tan, Sundarakani, Kozlak 2012). A remarkable rise in the international significance of services is also evident in the late 1900s and early 2000s, which has been associated with a host of dynamic changes in global economies, including customer expectations and demands, and the opportunities offered by new technologies investigating more ways of enhancing the efficiency and effectiveness of business processes. The development and inclusion of integrated IT platforms give rise to customer expectations of immediate service information like tracking and tracing capabilities, a service that was deeply lacking in the industry.

These changes in the world economy are driving growth in customer expectations and demands to leverage the commercial opportunities offered by new technologies (Haynes and Thies, 1992). The industry realized that a network approach is a suitable theoretical approach for conceiving the interrelated relationship between Logistics Service Providers (LSPs), their customers, and the suppliers (Hertz and Alfredsson 2003).

C. Why research 4th PL and beyond

Logistics runs at the speed of business, as a result of such speed its forever changing to suit customers. Hosie et al (2012) argued that the theory and practice of a networked approach to Supply Chain Management (SCM) are used to trace the evolution of management logistics. Reforming influences on competitive forces have deregulated and globalized. These technological and process advancements help companies to make improvements in their business processes but also give freight forwarders more freedom to modernize their propriety systems and become increasingly sensitive and perceptive to customers' needs. The power of the Internet and World Wide Web cannot be ignored. No other technology has made information so accessible and thereby changed the scope of business, entertainment, and society. The claim that the Internet is a participatory space (Kim, Tan, Bielaczyc 2015) is an optimistic view, as participation does not necessarily translate to active contribution in many cases.

Information technology (IT) plays a key role in disseminating 4PL & 5PL processes. Hosie et al (2012) discussed why businesses should consider and embrace 4PL & 5PL technologies: expansions of marketing channels, more efficient transportation modes. Customers can finally realize satisfaction, become more efficient and make optimum logistical decisions. As the services for X-Party logistics are continually evolving it is important to draw a fundamental distinction between them. As shown in Table 2, services could be tactical (doer) or strategic (develops/planning/implements).

Table 2. Summary of Services

	Custom Broker (Non-asset)	**Freight Forwarder (Non-asset)**	**3PL (Non-asset or Asset)**	**4PL (Non-asset or Asset)**	**5PL (Non-asset or Asset)**
	Tactical	**Tactical**	**Tactical**	**Strategic**	**Strategic-IT Supply Chain**
Service	Prepare docs for import/exports, payment of duties/taxes	Arranges transport/ of goods/preps docs/storage & insurance	Performs all logistical functions for customer	Performs and manages/improves client's supply chain functions.	Develops client's supply chain into a function that driven by technology
Assets	Narrow Assets, knowledge and technology assets	Some assets (physical, knowledge and technology)	Some or no physical assets. Primarily knowledge-based, technology for tracking shipments	Some physical assets. Extensive knowledge and technology-based assets	Some physical assets. Extensive knowledge and technology-based assets
Potential Benefits	Expert in customs clearance	FF can arrange costs and help with route efficiency for those companies who ship international.	Help companies who lack internal supply chain, resources and knowledge. • Inventory storage and management • Picking and packing • Freight forwarding • Shipping/distribution • Customs brokerage • Contract management • IT solutions • Cross-docking	Help companies with supply chains •Logistics strategy • Analytics incl. transportation spend, analysis, capacity utilization, & carrier performance • Freight sourcing strategies • Network analysis/design • Consultancy • Business planning • Change Mgt. • Project Mgt. • Control tower and network mgt. services, coordinating a wide supplier base across many	Help large companies with highly complex supply chains. • This applies when the switch is made from supply chains to supply networks. • service provider guarantees the management of networks of supply chains. • The industrial actor hires third parties for the supply of strategic, innovative logistical solutions and concepts. • provider develops

				modes and geographies • Inventory planning and management • Inbound, outbound and reverse logistics mgt.	and implements, preferably in close consultation with the client, the best possible supply chains or networks. • often linked to E-business.
Potential Draw-backs	Unknown	Unknown	• Focused on freight movement. Don't focus on the management and efficiency of the supply chain. • You have less control over your inventory and the customer experience • Finding the right provider who you can trust and rely on can be time consuming • 3PL can be an expensive cost, especially when you only have small quantities of orders • Generally, 3PL providers won't handle perishable, hazardous, or flammable goods	• Loss of control/ relationships with supply chain members. • Risk is high losing long-term partnerships. Likely to be expensive	• Loss of control/ relationships with supply chain members. • Risk is high losing long-term partnerships. Likely to be expensive

Consequences of Not Moving to 4PL & 5PL Systems

U.S. industry is adopting integrated strategic supply chain management, but it is doing it very slowly. The reason for the slow adoption is complexity, which explains one of the impediments to the adoption of integrated supply chain management strategies (Monczka and Morgan 2001). Integrated supply chain management is a strategy based on using a company supply function as a competitive tool. The chain, itself, is a connected series of company organizations, resources, and activities involved in creation and delivery of value in the form of both finished products and services to end customers. An additional explanation to the slow adoption is due to a variety of factors including the complexity of higher-level strategies, the resources, and commitment necessary to execute the strategy, a lack of a supply base optimization effort, and personnel who lack the skills and capabilities necessary for developing advanced sourcing strategies (Monczka, Handfield, Guinipero, Patterson 2009).

Monczka et al (2009) stated that strategy involves integrating all decisions that affect the design and flow of purchased items, materials and services into finished products in a way that makes the company more competitive. In addition, a supply chain management involves significant changes in traditional thinking in terms of how a company views supplies, uses technology and communications, maximizes its use of standardization and outsourcing opportunities, develops value-oriented management sourcing techniques, and shapes its supply base. Monczka et al (2009) concluded that is at the heart of the slow take off for supply chain management as a competitive strategy.

Lai et al. (2009) explain that from an operations perspective, the scope of business logistics is very broad. For this purpose, many businesses have found logistics to be an area in which to reduce costs and improve the benefits of services. Examples include unnecessary expedited shipments due to a lack in the visibility of shipments and requirement schedules, excessive production due to inaccurate forecast of market demand, and lost sales due to a misunderstanding of or slow response to customer requirements.

Supply Chain Management (SCM) has been changing rapidly since the early 1990s. These contextual changes have been driven by changes in strategic management and business structure at the firm level and from changes in the external business context within which business is embedded (Monczka & Morgan 2001). This has created a need to identify the business drivers causing this contextual change. Eventually however, this view of logistics management changed

in response to emerging managerial philosophies and practices. Logistics management thinking and practices have evolved from a purely operational clerical function to a sophisticated approach which integrates complex strategies and technologies.

Varma, Wadhwa & Deshmukh (2006) define logistics as "confined to movement of material, storage and inventory management, whereas SCM has a larger scope covering issues related to purchase, partnerships and customer satisfaction in addition to logistics related issues." A prominent option for U.S. service providers is to effect changes and move its direction to the next phase of (X) party logistics is by highlighting innovation thereby decreasing competition. While the U.S. has over 3,000 transportation companies offering a varied menu from 1 Party Logistics (1PL) to 4th Party Logistics (4PL), extremely few have evolved to provide customers the next phase of evolution: 5th Party Logistics (5PL). The base infrastructure has already been laid out. By not moving towards 5PL, service providers and customers miss opportunities that are reachable.

From a customer's perspective, not utilizing technology as a force in supply chain management (SCM) amounts to a misuse of emerging technologies since the issues surrounding the technological forces driving changes in logistics are the focus of this treatise. In concert with technology as a force, SCM services are rapidly evolving due in large measure to the widespread adoption of electronic commerce (Cabdoi, 2003). Improved Warehousing Technology is impacted with bar coding technology. It has been in use for order picking and fulfilment. Customers can now track their orders via internet (Li, Liu, Lei, Zhao, Ren 2003; Mankowski and Weiland 2018).

A supplier's impact of underutilizing these emerging technologies cannot be understated. These are some value-added services that suppliers are missing out on therefore not enhancing services to its customer base. Something as important as the expansion of marketing channels which impacts expenses. Costs for information processing have dropped since the 1900 forward resulting in managing global production systems (Hosie et al. 2012). The transportation industry has undergone changes for the last two decades with Geographic Information System (GIS), Global Positioning System (GPS) and radio-frequency communication system (Hosie et al 2012). More powerful Information Technology has grown exponentially from the 1980s. This has subsequently had a massive impact on all business areas, especially transportation and distribution (Lewis & Talalayevsky 2000).

There are emerging technologies that still need to be utilized, albeit, and top managers that must learn to bring technology and adequate skills together. Partial solution is represented in a paradigm shift (thinking outside the box) and knowing that progress is being limited to the current talent. In addition, recognizing managers are latent in continuing to develop the next logistic professional due to fear of losing their current position. The consequences are real and will be felt in annual revenues and profits which are currently lost with European firms that are capitalizing on the "sleeping giant."

Solutions to Encourage Growth of 4PL & 5PL Companies

In the face of challenging global competition, businesses are becoming more focused on customer needs and finding ways in which to reduce costs, improve quality and meet the growing expectations of their customers (Lai and Cheng 2009). 5PL can meet those challenges. Although there a few 4PL providers, the future lies in 5PL. The complete solution is to fully integrate information technology (IT), executives and managers accepting new paradigms in the development of skills and sales to move businesses toward presenting the next level of full customer service. The solutions include Internet, RFID, electronic data interchange (EDI), bar coding, tracking and trace software, and transportation software. When that is accomplished, the results will be that 5PL level of service can be profitable to both service provider and customer. The interesting thing to observe is that all the solutions required to move towards a 4PL or 5PL status are already available and implemented in varying degrees in the industry. The problem arises when these are not simultaneously used to maximize efficiency within one firm. However,

let us visit each of the solutions and identify what they would consist of, and how they could be simultaneously implemented to achieve a 4PL or 5PL status.

The first solution is outsourcing inventory management and providing key 4PL & 5PL activities such as warehouse management, inventory planning, forecasting activities, customs management, routing operations and network optimization (Win, 2008; Schramm, Czaja, Dittrich & Mentschel 2019). The second solution is to outsource the Supply Chain Management (SCM), an auxiliary service, to another organization which encompasses both evolutionary PLs (Ansari and Modarress 2010) which will enhance the efficiency and effectiveness of business processes. Thus, the strategic management of services requires managers to delineate the services provided through the development of measurable criteria and those associated with service operations. In other words, getting managers to shift their supply chain into a function that is completely driven by technology. This is particularly the case with intangible services such as outsourced SCM (Langley 2016; 2018).

The third solution to achieving a 5PL evolution is changing the landscape of logistics service providers (LSP) service. LSPs are most categorized in terms of the services that they provide on a continuum of asset intensive activities to IT intensive activities (De Souza, Sundarakani, and Shun 2008). Integrating LSPs with the business model of a company would ensure an efficient customer service model, without having to completely redesign the firm's primary goals.

The fourth solution that has not been fully captured by executives is how the internet should be integrated in the development of 5PL services. More than 50% of all transactions between carriers and their customers are estimated to be dealt with over the internet (Stock and Lambert 2001). EDI is probably one of the oldest technologies used in transportation and distribution. It can be defined as the application-to-application exchange of standard format business transactions. EDI replaces verbal and written communications with electronic ones. Stock and Lambert (2001) document the benefits of EDI implementation and demonstrate how it can enhance the logistical efficiencies in a business. The fifth solution that is embedded within the use of EDI is the use of bar code technology. Bar coding at the warehouse makes data collection more accurate, speeds up receiving operations and the labor of data collection and helps to integrate data collection with other areas, leading to better database and inventory controls (Li et al. 2003). The development of bar code reading techniques and a drive to include in the code as much information as possible led to the creation of a new code type with greater density of data recording.

The sixth solution to achieving a consistent shift to 4PL & eventually 5PL is the consistent use of RFID to track and trace transports, shipments and products. The technology has been greatly improved in recent years. Swedberg (2018) states that in 2018, RFID reduced the amount of time that drivers of inbound trucks spend checking in and receiving instructions by 60 percent. RFID allows users to relay information such as global positioning which provides real-time knowledge of a good's current location and directions to the intended destination. If used in the warehouse or distribution center, radio frequency results in significant improvement to the quality of order picking and shipping accuracy (Coyle et al. 2000). The seventh solution, implemented in tandem with the RFID application would be the use of other transportation software such as McCloud (Haverly and Whelan 1996). Transportation-specific software have several functions and are divided into four groups: transportation analysis, traffic routing and scheduling, freight rate maintenance, and auditing and vehicle maintenance.

The last solution for the realization of 5PL structures is the usage of e-Ports. It is designed for the use of e-commerce techniques to improve container terminal productivity. Trucking companies use e-Ports as the interface into the vehicle booking system at each of the company's container terminals, as well as the source of information on vessel movements. e-Ports permit industry to have access to real-time container tracking, together with as a range of reports tailored to the requirements of types of business (Rosencrance 2000). The level of technology used will vary between and within firms. Despite such variation, the use of technology is expanding at a rapid

pace in the area of transportation and distribution and it will continue to grow well into the future (Cabdoi 2003). The above discussion highlights the complexity involved in the SCM function by technological innovation, which in turn must be dealt with by a growing number of experts.

Conclusions

To reiterate, a revolution in transportation occurred 40 years ago with the deregulation of the industry. Since then, the industry has been lacking in developing total customer satisfaction by not developing an industry-wide total customer package. The roots of today's IT challenges lie in yesterday's technology investments. Many 3PL providers operate legacy ERP and operational applications that run on mainframes or mid-range systems. Acquisitions add to the systems complexity. As a result, 3PLs are spending the lion's share of their IT resources keeping it all running. The difficulty of rationalizing and modernizing legacy applications means some 3PLs are maintaining multiple data silos with duplicate and incorrect data. Integration that does occur within the 3PL as well as with partners is often based on proprietary protocols and legacy EDI standards. Shippers, too, face issues with legacy technologies that consume resources and impede integration efforts.

Our findings, based on looking at a variety of studies on Logistics systems, suggest that the industry has a long way to go to give customers true value due to the lack of efficient expansion from 3PL to 4PL or 5PL systems in various industries. There are some emerging technologies such as RFID, EDI, tracking and tracing, and some transportation software, that are being sporadically or inefficiently used by various companies, but this is not enough to ensure sustainable solutions to logistical issues. As with the initial resistance to accept change and move towards the adoption and implementation of the 5PL value proposition, executive managers are slow to break the paradigm in their current thinking by not marrying technologies, having the will to change, and having the necessary skills to push clients to greater efficiency. Innovative business approaches are needed to meet the challenge of these new competitive environments and the diffusion of innovation within and between companies will be essential in redefining SCM.

In short, users are just beginning to understand the differences and related benefits of the various relationship models. Thus, companies are becoming pessimistic about adopting the "strategic" type of relationship models because of the general confusion of terms, lack of proven case studies, and complexities involved. No comprehensive studies have been undertaken in the last five years; therefore, information is limited as to the development of 5PL technologies. There is a long-standing need for a comprehensive and holistic approach to the fulfillment of the most intricate and complex supply chain requirements across the entire spectrum of logistics. There is a potential drawback: without a paradigm shift, the concept that 5PL may not achieve the claim of improving supply chain efficiency and effectiveness in the form of cost, service, performance, and value.

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Beautiful Experiments in Teaching Freedom: Collectivist Conceptions of Interdependence in the Discussion of Liberatory Teacher-Student Trust

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ABSTRACT: Top researchers in the field of critical pedagogy signify that trust literally liberates the brain from fear. This allows for student creativity and higher-order thinking; without cultural awareness and empathy, researchers claim, educational apartheid in inner-city public schools will persist. American notions of 'proper' teacher-student dynamics are contextualized by the political philosopher John Locke who delineated a framework dismissive of relational interdependence. Thus, within domestic pedagogical scholarship, collectivist conceptions of teacher-student relationships, congruent with African American collectivist cultural understandings, remain largely unexplored. At first glance, consideration of political philosophy seems peculiar. This perspective, however, is not only compatible--but critical; interpretations of the intersections between political theory and pedagogical analysis are necessary to move beyond mediating the effects of marginalization towards addressing theories surrounding interrelationship and their exclusion from academia, throughout history and today. The following analysis briefly discusses Afro Cuban notions of collectivism, particularly relevant because of their ties to socialist ideologies--opposite of John Locke's economic outlook. It then interprets texts from ancient KMT, "The Satire of the Trades" and "Instruction of Ptahhotep," in order to articulate the specific definitions of connection that evade modern educational discourse. This research is imperative; effective pedagogy within classrooms will both reduce crime--as is indicated by the realities of the school to prison pipeline--and produce adults prepared and willing to eradicate other crises in American society.

KEYWORDS: Ptahhotep, Jose Martí, political theory, education, inner-city youth

Introduction

Socialism augments onto the biggest cultural difference between the United States and Cuba: collectivism, in contrast to the United States' unbridled individualism. Within an individualistic society, citizens set personal goals and objectives based on distinct notions of self. People are most comfortable operating both solitarily and autonomously. Alternatively, collectivists are propelled by group needs (Reed 1997, 194). Both collectivism and individualism are prevalent within the texts of José Martí and John Locke: political theorists that set foundational substructures for their respective national governments, economies, and lifestyles. Martí was a scholar who is considered a Cuban national hero and revolutionary political theorist, particularly relevant to Latin American literature (Horan 2010, 181). He was divergent, in thought, from John Locke: a philosopher regularly associated with individualistic thought and capitalism because of his Treatises of Government; the texts emphasize individual rights and private property. Locke's ethical and political individualism served as a cornerstone for the US experiment in self-government, individual freedom, and constitutional restraint (Jeffreys 1974, 34).

The understanding of socialism as a cultural opportunity for the pursuit of collective justice and equality was a leitmotiv of Cuban revolutionary conversation. Hence, formal education became relevant to Cuban concepts of both what it is to be fully human and what it means to be a citizen that positively contributes to the nation at large (Martínez, Milagros, and Resende 2006, 32). The Revolution had an extremely successful implementation of mass education, particularly helpful for Afro-Cuban communities (Martínez, Milagros, and Resende 2006, 40). For Afro Cuban revolutionaries, specifically, education became a way of combating sustained cultural and ideological oppression. In the US, this type of epistemicide—meaning the intentional destruction of knowledge systems—still thrives. According to the Oxford Dictionary, political philosophy, in

general, refers to the study of fundamental questions about government, liberty, justice and the enforcement of code by authority. It is essentially ethics applied to the individual sphere. It discusses both how societies should be constructed and how individuals should operate within societal norms. In academia, however, who is considered a political philosopher is often constricted by political associations. American academia, specifically, has consistently discriminated against Cuban intellectuals, deeming them incapable of creating legitimate interpretations of racism and education (Grosfoguel 2013, 51).

Results and Discussion

KMT ("the black land") is Africa's oldest recorded classic civilization. More commonly known as Egypt, its philosophies, notions of group identity, and theories about politics quite literally set precedent for all other conceptions of civilized life (Hilliard 1992, 17). Still, these three statements--KMT is the oldest recorded classical civilization; KMT had a large impact on world history; KMT was unified with the rest of Africa--explicitly combat narratives within the History and Philosophy disciplines about the impact of Egypt on African diasporic societies and the world (Hilliard 1992, 3). According to what *Intellectual Warfare* calls the 'ancient tradition,' many Greek and Roman philosophers and political advisors traveled to Egypt to search for wisdom from African people. At the time, KMT was known as a place of high civilization, cultural understanding, and political intellect. The 'new orthodoxy,' however, imposed, and then enforced, the notion that African people were living in an unstructured 'dark ages,' until Europeans brought them civilization. This was done to provide moral, intellectual, and civic justifications for the slave trade, colonization, and brutality (Carruthers 1999, 1).

As sociologist Ramón Grosfoguel signifies, these inaccuracies are especially relevant to disciplines of human sciences--including the social sciences and humanities. Slavery meant that African individuals were subjected to a "regime of epistemic racism that outlawed their autonomous knowledge." Further, the racist idea at the end of the 16th century, that "blacks lacked intelligence," has turned into a new 20th-century proclamation: "blacks have low levels of IQ" (Grosfoguel 2013, 59). And, make no mistake, he comments, this notion of black intellect still "calls into question black humanity" (Grosfoguel 2013, 49). This reality is expressed by the Afro-Ecuadorian intellectual-activist Juan García when he says: "I have always been told that my knowledge is not knowledge, that my land belongs to no one, which makes me think that I am not a person" (Walsh 2007, 200). African diasporic individuals today, like in the case of García, struggle to combat internalized notions of inferiority first imposed by the devaluation of their ancestors' philosophical musings. Thus, the modern marginalization of Cuban academics within American spaces and the historical exclusion of KMT from scholarly literature signifies notions of who has 'legitimate' political thoughts, is often generated by political commitments to the imposition of particular ideologies.

Amongst the Afro Cuban demographic Jose Martí's interpretations of intimacy and societal engagement—representative of mainstream Cuban national dogmas—is nuanced by the cultural relevance of maxims embedded within afro diasporic ancestral norms. Similarly, the African American community aligns with ancient KMT but, unlike Afro Cubans, this notion is directly perpendicular to individualistic conceptions of intimate connection and political obligation, integrated into mainstream domestic American life. The most prominent and earliest philosophy in black scholarship is found in ancient Egypt: "The Satire of the Trades" by a scholar named Dua-Khety and "Instruction of Ptahhotep" by Ptahhotep, a political advisor of the time. Known as 'sebayet,' which means "wisdom literature" in ancient Egyptian, these compositions expose the theoretical underpinnings of ancient Egyptian societal engagement, especially about intimate connections (Rollston 2001, 135).

The "Instructions of Ptahhotep," centers around Ptahhotep's recommendations for an unspecified subordinate—perhaps, his son, successor, or student. Phtahhotep's maxims present views on communication and ethics, specifically regarding interpersonal relationships, through a

discussion reminiscent of dynamics esteemed within modern collectivist cultures. Ptahhotep would have been generally considered an important citizen at the time due to his civic and scholarly involvement but the unidentified dependent is also recognized, at least by Ptahhotep, as necessary; without investment in children, there could be no longevity of cultural or political reign. As such, these textual formats demonstrate the prevalence of intergenerational interdependence in Egyptian life. Further, Walsh (2007, 206) in "Afro in Andean America: reflections around current struggles of (in)visibility, (re)existence and thought," indicates that the role of elders as holders of knowledge is one that connects Afro Cuban, African American, and ancient Egyptian ideas about education. In "Do we still adhere to the norms of ancient Egypt? A comparison of Ptahhotep's communication ethics with current regulatory principles," Löwstedt (2006, 494-5) expands on the close parallels between the norms asserted in the text and present-day conceptions amongst black activists in Cuba and North America. More specifically, Löwstedt references Ptahhotep's economic perspective; "the lack of market economy rationale" and a "widely perceived need to limit commercialism," he considers, in fact, "reminiscent of revolutionary Marxism and reformist socialism" represented by the domestic left and many Afro Cuban individuals.

The section of "Instructions of Ptahhotep" called 'Follow your Heart,' discusses the balance between this sort of communal connection and independence, in relation to success. One should "[follow] [their] heart as long as [they] live," but only once they properly "[provide] for [their] household," it reads. This allows for true joy because Ptahhotep suggests, no individual can be happy pursuing individual success—especially based merely on monetary acquisition—while their family remains "glum." Though this was written centuries before Martí, this approach incorporates elements of his interpretation of proper societal order. Like Martí, the communal gain is highlighted by Ptahhotep and considered critical, along with introspection. However, this appraisal is nuanced by specific attention to fiscal interrelationship and passion as a prerequisite for happiness and peace. The next portion, entitled 'Conduct,' adds to this definition by assigning importance to equality within close-knit intimate relationships. This is distinct from the attachments of equality to the notion of a vague 'humankind, which Martí offers. Ptahhotep encourages repellence of the "vice of greed; a grievous sickness without a cure." He expands saying that greed is particularly significant because it, more so than other "evils," "embroils fathers, mothers, and the brothers of mothers." The fact that it disrupts intimate connections makes it worth this descriptor: "compound of all evils, a bundle of all hateful things." His obvious contempt for greed impacts his notion of felicity. The joy articulated in 'Follow Your Heart,' is not tied directly to property accumulation nor total self-abnegation; it requires the pursuit of individual goals. The objective of intimate connection, then, incorporates the actualization of communal stability and personal focus in the direction of achieving one's purpose. 'In Public,' later mentions the need to reserve the expression of negative personal opinions for the sake of common good, even if the particular appraisal is accurate. There are many more examples, but with each subtopic, there is an affirmation of political and cultural norms; both inner virtues and collective aptitudes, this insinuates, are critical to stability within political management and the maintenance of cultural tradition (Löwstedt 2006, 1).

The conceptual perspective of virtue in the "Instruction of Ptahhotep" can be described through MA'AT: a name attributed to ancient KMT. It represents truth, justice, righteousness, harmony, order, balance, and reciprocity. "Keep to the truth," Ptahhotep's Treatise starts. Truth is essential to wisdom; one should personally seek truth to gain knowledge; and knowledge, as well as good communication, is important for societal harmony, dignity, and respect. Inauthenticity is immoral and individual self-awareness is one's duty, he also indicates. With introspective attention, individuals are more capable of distinguishing between reality and falsehood. He specifically condemns artificiality, like greed, because it can lead to "[harmful] [intentions]." In agreement with his notions of intimacy, MA'AT forces one to understand themselves to increase love and respect within the community at large (Löwstedt 2006, 497). Furthermore, he equates liberation with the elimination of power hierarchies. Freedom of expression is thus intrinsically

about the possibility to not only speak the truth but also to "[speak] truth to [people] [in] power." With this comprehension, freedom of expression and—in tandem—liberation is always transitive in KMT society. The term 'freedom of expression' is often used today, in contrast, intransitively—as something attributive or predicative rather than relational and interactive, as something that one possesses not something that is developed through healthy relationships between individuals or with oneself (Löwstedt 2006, 498). In "Instructions of Ptahhotep," three different sections start with the same line: "If you meet a disputant in action." Then come three different scenarios: "A powerful man, superior to you," "your equal," and "a poor man, not your equal." In each scenario, he recommends the same traits: patience and self-control (Löwstedt 2006, 1). Equality, thus, is important for a connective sort of justice where spiritual and societal peace abides through intentional equality of treatment. As such, the notion of justice is correlated with a meaningful construction of the moral universe, in which all voluntary acts are viewed collectively. This may also be a form of constructing causality as a scientific principle: that there is no event without cause or consequence. Justice, then, will prevail through reciprocal logic—especially with attention to horizontal solidarity. The social memory necessary for connective justice is related to the idea that every action is communicative, either an answer or a question (Löwstedt 2006*,* 503).

In "To be an African Teacher," Dr. Asa Hilliard (2009) recognizes the pedagogical elements of ancient Egyptian education which are encapsulated through three important features: respect for ancestors/community tradition, the notion of children as divine gifts from the creator, and the elevation of spirituality/building for eternity. Egyptian scholars, he articulates, were less concerned with formal educational processes. They had more interest in conceptual mastery which they believed would lead to cultural preservation. They encouraged their students to attain excellence—in, for example, capacities to interpret the natural and connect it to human sanctity—through a particular approach which included apprenticeship and holistic nurturing. Through hands-on-interaction, thus, children were able to learn from 'true masters': individuals who were considered steeped in the thoughts and behaviors of their communities. For teachers, the propensity for excellence was assessed by one's likelihood to seek intergenerational wisdom. Those that communicated regularly with local elders and demonstrated loyalty to societal obligations were praised. This incorporates the previously mentioned notion of respect for ancestors as well as the importance of maintaining community norms. African teachers, additionally, believed in an innate genius of children, rooted in their divinity. Because they considered children divine gifts, educators automatically held high expectations for their students and they cared about nurturing quality teacher-student relationships, peer-peer interactions, and fostering genuine connections between home and school life.

Hilliard claims the worldview of teachers in ancient KMT should be widespread knowledge--at least amongst black communities. Egyptian pedagogy aimed to teach how to cultivate good character and create social bonds. "For the African teacher," Hilliard states, "teaching [was] far more than a job…[Their] students and parents [were] [their] family." The self-sacrifice that was sometimes needed to obtain and uphold the virtues of MA'AT was bolstered by a culturally-enforced pedagogical commitment to spirituality and eternity. The general subscription to a higher power, human connectedness, and generational sustainability prompted an education system that viewed education as not only a cultural necessity, but an extension of divine ordinance. There was virtually no separation between one's spiritual and intellectual self (Hilliard 2009, 1). In fact, many educational processes were passed on orally as part of religious processes (Löwstedt 2006*,* 1). The scholar Elsa S. Guevara Ruiseñor connects Latin America to ancient Egyptian ideologies when the author says that they, also, "[deplore] the flourishing of individualism and the lack of commitment sustained by a culture of consumerism that promotes an obsessive complacency and makes it very difficult to sustain" intergenerational, interdependent, sacrificial, and spiritual teaching (Ruiseñor 2005, 859).

The significance of KMT is reaffirmed through its historical utility in grassroots struggles for African American liberation--most recently, the pushback against prejudiced federal standards

in the 90s; Asa Hilliard participated in this movement. The very existence of the "Instruction of Ptahhotep" and the 'Satire of Trades' are epistemological combatants against black dehumanization. Their conceptual value for intergenerational knowledge preservation, too, still supports worldwide black intellectual emancipation. Wade Nobles in "Per Âa Asa Hilliard: The Great House of Black Light for Educational Excellence" states, "conquerors are fully aware of the power of history and culture," as a basis for independence. Once freedom is won it must be sustained; a free person or group must have an independent conception of identity, purpose, and direction. The history and culture of KMT provide the foundation for these independent visions. Like dominant Cuban culture, Westernized distance allowed for the preservation of collectivist interpretation within societal scrolls. While many African Americans, specifically, but Afro Cubans as well, feel deeply disconnected from the KMT, the past--according to numerous black scholars--truly "contains the seeds for the future," in terms of presenting viable educational and liberatory measures (Nobles 2008, 730). And as Walsh expresses, the inclusion of social justice in educational theories, to Afro-diasporic communities, is almost a given. More specifically, Afro-diasporic demographic notions of education often encourage "development...towards the agency of critical, active and collective subjects that could act [in] their lives and those of their communities; subjects capable of seeking knowledge not only in written texts but also in collective memory" (Walsh 2007, 205). Whereas many historians have been astonished by the unparalleled building of great tombs and temples within KMT civilization, Dr. Asa Hilliard raises an, arguably, more significant question: "What kind of educational system...allowed for the attainment not so much the level of technical development as the philosophical orientation [and]...uses of the technology?" Consequently, one must parenthetically ask, how did the education of black students move from becoming one with MA'AT to being, at least domestically, academically inferior (Nobles 2008, 731)?

The Afro-descendant people in the Andean region of Latin America, have constantly resisted and challenged order, finding ways to feel national integration and social interdependence despite exclusion from societal institutions. In contrast to indigenous grassroots organizations that mainly aim to transform their relationship with the state, Afro-Latinx struggles tend to center issues rooted in the intimate sphere. Within education, for example, they specifically focus on self-esteem, described as an intimate process of "affirmation, strengthening and re-existence" by the scholar, Catherine Walsh. The main site for this work is in the communal efforts for the development of African education, also known as 'ethno-education' (Walsh 2007, 201). In this sense, it is worth remembering and giving agency to the words of two black intellectual activists whose lives exemplified these struggles. One is the Afro-Colombian and Ekobio mayor Manuel Zapata Olivella who argued some years ago that, "the chains are no longer in the feet but in the minds." The other is W.E.B. Du Bois who said, in his ruminations about black consciousness, "ignorance is not only of letters but of life itself." It is these individual chains and this ignorance, decimated by empathetic internal intimacy and accurate historical education, that persist amongst Afro Cubans and African American folk, especially in activist spaces (Walsh 2007, 206).

According to "Epistemologies, oligarchies, and scriptures in crisis: from racialism to culturalism in the Latin American essay of the 1930s," there is no doubt that long historical processes have resulted in strong cultural parallels between the paradigms of black communities throughout the "black Americas," including--the author implicates--amongst Afro Cubans and African Americans (Mailhe 2005, 30). There are obvious differences; individualistic American culture deviates strongly from general Cuban collectivism, represented both in the Afro Cuban demographic and in dominant Cuban cultural beliefs. There are also, however, the obvious bonds of brutal conquest, human exploitation, and cultural extermination in the pursuit of plantation-based economies. Simply put, this means that in modern societies throughout the Americas "the decoupling of traditional social forms by industrial social forms," have replaced traditional black "social structures such as the Church, the village community and the extended family." Instead, they are "replaced" with other fascinations "such as science, the national state, and the nuclear

family." This has direct implications for spheres of intimacy because, presently, another article argues, African diaspora erasure forces the devaluation of African American notions of solidarity, value for self-awareness, and acknowledgment of the need for interpersonal relationships (Ruiseñor 2005, 863).

Conclusion

Within America, teachers would not be expected—for example—to even meet a student's family, let alone consider themselves a part of a student's intimate circle. This is particularly difficult for African American students as, KMT signifies, intergenerational interdependence is commonplace within their early educational frameworks. In the United States, formal education is generally regarded as a primary vehicle for reducing poverty and closing the wealth gap between African Americans and dominant cultures. Still, African American students are often located in schools with less qualified teachers, teachers with lower salaries and novice teachers (U.S. Department of Education Office for Civil Rights, Data Snapshot Report 2014, 1) Research from Upjohn Institute demonstrates evidence of systematic bias in teacher expectations for African American students and non-black teachers were found to have lower expectations of black students than black teachers (Gershenson et al. 2015, 15).

While somewhat outdated, these insights possess legitimacy. Contemporary researchers have found that 'high achievement teachers' communicate higher performance expectations for students and demand more work in comparison to other teachers within their respective schools. Teacher efficacy—defined as taking both the credit and the criticism related to students (Ronald and Solórzano 1999, 67). The text "Unlocking the Potential of African American Students: Keys to Reversing Underachievement," by Yvette Jackson, begins with explanations of African American cultural values: resilience, spirituality, humanism, communalism, orality, realness, and personal style. Resilience is defined as the conscious need to bounce back from disappointment and disaster; African American culture considers humor and joy tools to the renewal of life's energy in response to societal oppression. For African American populations this renewal is often associated with spirituality which is based on a belief, derived from many African nations, that all elements in the universe are of one spirit and that all forms of matter are different manifestations of divinity. Communalism denotes awareness of the interdependence of people and is connected to the elevation of orality and verbal expressiveness, which refers to the special importance attached to the knowledge that is passed through word of mouth, as well as realness—which refers to the ability to face life as it is, with authenticity and uniqueness (Jackson 2005, 207). The blunt refusal to mimic the exact technique of a particular classical author in an assignment, for example, might be a demonstration of African American 'culturally affirmed' creativity through an appeal to personal style, verbal communication and realness. However, this may be perceived as defiance from an authority figure who does not understand the cultural values of an African American student.

Notions of what constitutes 'legitimate' political theory—often rooted in prejudicial political agendas—have, so far, obstructed academic research regarding the relationships between Afro Cuban, African American, and ancient Egyptian conceptions of intimacy. Teacher-student love in Cuba, impacted literacy rates, especially within the Afro Cuban demographic. Today, these historical notions of love remain amongst Afro Cubans activists. African American activists, too, recognize the necessity of intimate teacher-student bonds to mitigate African American educational underachievement. However, they do not explicitly delineate the type of intimacy that must be fostered, nor do they suggest how a public school teacher in the domestic inner-city could actualize these ideologies; it seems, the teacher would have to create and sustain their own mini cultural revolution within a classroom setting—a difficult feat. Consequently, future research must be conducted on how divergent notions of blackness and individualistic dogmas regarding interdependence would impact the reality of cultural transference. Still, the potential positives of the incorporation of afro descendent interpretations of intimate connection within inner-city classrooms are clear. The ideological applicability of afro diasporic intimacy definitions—rooted in

collectivism—to conceptions of teacher-student relationships, thus, must be pursued within political theory scholarship related to the educational sector or liberatory social justice work.

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Migrancy and the Birth of Nativism, Uganda 1920s-1960s

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ABSTRACT: Uganda has experienced explosive inter-ethnic conflicts and yet internal migration has persisted, and intermingling of different ethnicities has led to a complex relationship among them. This article bases on the oral history and life histories of the former Banyankole migrant laborers and their former Baganda employers, to discuss the incentives that propelled migration of people and what impact it had on the relationship among them. The article argues that the Banyanyankole migrant labor experience informed their socio-economic and political behavior back home, influenced the penetration of capital in southwestern Uganda, informed the Banyankole perception of the Baganda, and subsequent relations that defined their interactions, which ignited flames of nativism. It is pitched in the historical theories of Ravenstein and Lee. The findings show that the labor migration in Uganda was in response to the colonial economic policies, which aimed at developing the colonial overlord. The factors that propelled migration included the need to pay taxes, mobilizing resources for marriage, access to manufactured goods, and cash nexus. Migrancy had an impact on both the sending and host communities in defining their identities in relation to cash crop growing and expansion in Ankole, change in the labor dynamics, monetarization and commoditization of the economy in Ankole, change in gender roles, Baganda versus Banyankole perception, and modern life in Ankole.

KEYWORDS: migrancy, ethnicity, nativism, migrant labor, citizenship

Introduction

This article focuses on the two critical questions namely; what factors forced the migrant laborers to migrate from Ankole to Buganda? And, what impact did migrant labor experience have on those who were involved in it and, on sending and host communities? The study on which this article is based, established that there were two generations of migrant laborers from South-Western Uganda to Buganda during the period studied. The first generation migrated in the 1920s and 1930s. The members of this generation have long passed on and this study could not capture their firsthand narratives. The second-generation migrated in the 1940s and 1950s. Many of the members of this generation have also passed on, but there are a few who are still surviving. This study captured the testimonies of those few still live. This is because, for the most part, the second-generation migrants were sons of the members of the first generation. Therefore, the researcher was able to gain insight into the experiences of the first-generation migrants through the testimonies of the second-generation migrants. From the testimonies, the factors that compelled the Banyankole migrants to travel to work in Buganda were both push and pull, and, among the various consequences, the Banyankole migrant labor experience determined the perception of the Baganda and subsequent relations between the groups (Banyankole and Baganda).

The factors that led to labor migration from Ankole to Buganda

The main factors for migrant labor from Ankole to Buganda during the period under study included: the need to pay taxes, mobilise resources for dowry and marriage, access to manufactured goods, bandwagon effect among others.

The need to pay taxes

All the participants in the study stated they and their fathers were driven from their villages to migrate to Buganda to earn money to pay government tax (poll tax), imposed in the early years of

colonialism. According to the various testimonies, since the cash crops needed by Europeans had not yet been introduced in their area, there was no other source of money to pay government poll tax. If one migrated to Buganda, he would either take up employment with Baganda landlords and earn a wage or would hire land and cultivate cotton and sell it to raise the required monies for the service of the colonial state whose official labor policy was directed towards profit maximisation on capital (Rutabajuuka 1989). The participants indicated that the poll tax was paid annually and if one was found not to have paid, he would be arrested by the local chief and imprisoned. It was, therefore, a crime, not a civil wrong to fail to pay the poll tax. The fear of imprisonment on account of failure to pay poll tax forced all the migrants to move to Buganda. Migrant labor from Ankole to Buganda was undertaken by men because the poll tax was exclusively charged on adult men. Participants in the study also pointed out that all migrant laborers were Bairu cultivators. The Bahima were seldom involved in migrant labor because they would sell animals like cattle and get the money to pay the poll tax. This finding is consistent with the previous researches in West and South Africa during the colonial period.

Tax administration was a serious consideration by the migrant communities. For travel, the "Nimbanza", first-time taxpayers were required to travel with their tax assessment slips. Those who had started paying were required to travel with their poll tax tickets. In some circumstances, some of the migrants travelled using the tickets of their kinsmen. As the tax was an annual obligation, those migrants who stayed in Buganda had to send money to their home *gombololas* (sub-counties) to have their taxes paid and the tickets brought to them. Those who failed to do that risked facing double taxation i.e. paying tax in Buganda and their home districts, or harassment from tax collectors and enforcement agents positioned at strategic points along Buganda -Ankole Road. Kabwegyere (1995) stresses this element of double taxation thus, "when labor recruitment went beyond a given district boundary, as when the Banyankore or Bakiga would go to Buganda, this established a new dimension. If a person paid tax outside his own district, on returning to his home district, he was required to pay another one. The argument was that the money paid to the foreign district was not going to benefit his own district – and this was true because the policy was that each district should be self-sufficient" (Kabwegyere 1995, 148). This finding is consistent with the previous researches such as in South Africa, West Africa and central Africa, particularly in Belgian Congo (Marks and Trapido 1987). It becomes clearer here that migrant labor did not come from Ugandan labor reserves alone after 1940s.

Mobilise resources for dowry and marriage

The testimonies of all participants in the study indicated that the need to earn money to purchase the commodities and goods needed to start a family was a very important push factor for migration. In Ankole at that time (till now), a man wanting to start a family with someone's daughter had to pay bride price. The bride price was mainly in the form of cattle and goats. Many Bairu cultivators did not own or raise cattle, yet they were required to pay bride price in this form (Jan 1987). Therefore, to acquire the cattle, the Bairu young men had to either enter the service of a Omuhima for many years, after which get paid with "akanume" (a male calf), then the Omwiru would have to raise the calf into a big bull, after which convert it into a heifer to pay bride price. It was not acceptable to pay bride price using a bull or an ox. This process was not only long and humiliating, but also a very unpopular practise that make migrant labor appear to have offered the poor Bairu a solution to the long and humiliating labor service to the Bahima (Doornbos 1978, 38-51). Therefore, the migrant labor offered an opportunity for one to work hard and after a short time (one or two years) earn money, use it to purchase a cow or two which he would use to pay bride price. This factor was voiced by all the participants in this study. One of the participants, Mzee Nazario, recounted a unique experience. He first identified a wife but could not wed her before completing the payment of bride price. He then proceeded to Buganda and worked for a year before returning home to proceed with the marriage procedures. This information was validated by records of the Catholic Church at Kitabi Parish, which was started by white Fathers missionaries headed by Pere Jean Marie Le Tobic in 1908 and started

giving sacraments in1912. From records available over 645,286 Christians have received the Sacrament of Baptism and over 10,000 couples have had their matrimonial sacraments at the parish. In the marriage registration records book at Kitabi Parish, there were several cases of people who were registered but delayed their weddings for more than six months and the remarks against these records indicated that the delay had been caused by failure to complete payment of bride price.

Access to manufactured goods and household equipment

All the participants in this study indicated that they migrated and worked in Buganda more than once. While all of them were motivated by the need to raise money for bride price and marriage, they did not stop migrating after marriage. For many of them, marriage brought about more additional costs which required cash/income. Therefore, many newly married males made one or more trips to Buganda to earn the money to buy articles of clothing, beddings, and household equipment like cooking pans, plates, cups, hoes, pangas, axes among others. A few of the participants in the latter generation purchased bicycles and corrugated iron sheets which they used to roof their houses. Mzee Kaceremete and Mzee Ntunduguru have kept to-date the items they cherished much from this experience as part of their treasures. For example, Mzee Kaceremete treasures his corrugated iron sheet roofed house, which he built in 1958 with money and iron sheets got from Buganda.

Escape from *Luwalo*

The testimonies from the participants in the study indicated that some men got involved in migrant labor in order to escape from forced labor -*luwalo*. *Luwalo* was a form of labor used in Nkore before the establishment of colonial rule. It was used by chiefs and kings to perform works that would benefit the community such as constructing bridges across rivers and swamps. The same labor practice was used to construct houses, clear compounds for chiefs and palace quarters for kings. The colonial administration adopted the institution of *luwalo* and applied it in the construction of government/public works in order to encourage the supply of free labor (Mamdani 1999, 125). This factor started with the generation of the 1920s and 1930s when forced labor was a major government policy in different regions of Uganda but did not end there. *Luwalo* was demanded from all able-bodied men to perform roles in government public works such as road construction and maintenance, school construction, office building construction and maintenance of labor camps. *Luwalo* was thus a form of labor performed for the benefit of the community.

In societies where the state had emerged such as Buganda, Ankole, Toro and Bunyoro, *luwalo* labor at times was utilized for the benefit of chiefs and kings. A chief would call upon his subjects to perform any form of labor for himself (the chief) or for the king, and construction of footpath or manned bridges as it was the case in Ankole. However, such was always regarded as tribal obligations for the good of the whole community. What ought to be emphasised here is that this pre-capitalist form of labor organization and control was adopted by colonial capitalism as it did with other pre-colonial forms of social, political and economic organisations. *Luwalo* labor was widely used in road construction, construction of public buildings, churches, schools among others. In Ankole, and particularly in West Ankole, forced labor of *luwalo* type was widely used for public works namely roads, gombolola, saza as well as district headquarters, schools, bridges, swamp drainage to destroy breeding grounds for tsetse flies to eradicate sleeping sickness and nagana. The respondents in this study reported the use of *luwalo* on the construction of roads between Mbarara and Kasese, the construction of the bridges across river Rwizi in Mbarara and across Kazinga channel on the border between Ankole and Toro at Katunguru. They also reported the use of luwalo labor on the construction of Ntare School, construction of migrant labor camps (emiginda) at Mbarara and construction of Mbarara Hospital. Some young men chose to migrate to Buganda for labor on Baganda farms for payment instead of the forced non-paid labor. The *luwalo* was not incumbent upon the migrant. Once the man was not at home, that year passed without him having to perform the obligation.

Cash nexus

The participants in this study through their testimonies indicated that there were situations when young men, who had not married joined in the migration experience because they needed money. Cash nexus was fast spreading and deepening and the need for money was no longer a novelty but rather a real need because these young men needed cotton cloth and other industrial goods; they were not merely following others (Tunanukye 2017). The motivations for labor migration were: taxation, resources for marriage, access to manufactured goods, escape from luwalo and cash nexus.

The migrant labor situation in Buganda was engineered by the colonial policymakers in Uganda who divided the country into labor reserve areas and cash crop zones or non-productive and productive zones axis (Lwanga-Lunyiigo 1989) The experience of the Banyankole brought about the breakdown of this policy because it led to the spread of coffee growing from Buganda to Ankole. Testimonies from the participants in this study revealed that the introduction and the growing of robusta coffee are associated mainly with migrants from Buganda. On their day of departure, it was common for migrants to pack coffee seedlings or coffee seeds in their clothes for fear of being seen by Baganda landlords. Seedlings or seeds were then planted in their home fields before returning to Buganda in the subsequent trips. Mzee Ntunduguru narrated how he treasures his coffee variety which has got two seasons. He indicated that after the second harvest of his coffee, he swore never to go back to Buganda. Following the successful experiment with robusta coffee by migrant laborers, the colonial government started to distribute coffee seedlings in Ankole from the early 1950s onwards. Soon the coffee trees became coffee shambas and coffee became a major export/cash crop produced in the area. The colonial government's success of the coffee seedling distribution was eased by migrant labor experience. Those who had worked in Baganda coffee shambas or had smuggled the seedlings saw the distribution as an opportunity to expand their gardens. One of the major effects of migrant labor experience in Ankole, therefore, was to accelerate the expansion of the coffee cash crop production in the region. The peasants (Bairu) became coffee producers hence obtaining an income that transformed their status and increased prosperity in terms of housing and articles of clothing.

Change in the labor dynamics

The Banyankole migrant laborers experiences gave rise to the concept in Ugandan labor relations known as "okupakasa" to work for a wage. With the experience of migrant labor relation of wage labor otherwise called "okupakasa" which became popular in the region, was related to "new social grouping of men" reported by Davidson in Nigeria, South Africa and Zambia whose livelihoods depended on colonial mines and plantations (Davidson 1989, 28). Prior to the penetration of capital in the region, work that was rewarded in terms of "enume" or other property, but with the interaction of capital and labor on the land, work was interpreted in form of wages and so a new labor relation "okupakasa" was born. The terminology *okupakasa* in Ankole became the product of migrant labor experience which was associated with wage labor. The noun *Omupakasi* was used by the Baganda referring to the Banyankole and Banyoro migrant laborers.

Monetarization and commoditization of economy in Ankole

One of the objectives of colonial economic policy which stimulated migrant labor was to hasten the integration of entire Uganda into a monetary economy as it was with the Kenyan experience (Berman and Lonnsdale 1992). The Ugandans' adoption of the money economy would expand the market for British manufactured goods. Migrant labor, therefore, accelerated the spread of monetary economy to Ankole. Before this, transactions of trade were carried out using the barter method and wealth was measured in terms of herds of cattle and how much food was harvested at the end of the season. The bigger the harvest, the more food secure a family was and therefore the bigger the size of the family and influence of such a family in the society. Migrant labor experience availed money for the

purchase of cattle and other items for pride price. Migrant labor introduced a new approach to life from informal communal kind of life towards a commercial and profit-oriented kind of life. Two examples were cited by the participants in this study: the replacement of the free communal beer party “entereko” with the introduction of “ebara"- a bar where beer was sold. The second example was the introduction of gambling "wakareba”. One of the key informants to this study, Mzee Koyikyenga told of his experience, how he was abandoned by a Muganda lorry owner in Kyabakuza – Masaka as he awaited for transport to complete his journey, he was conned by gamblers. In this experience, he lost all his money and had to first take up wage labor for several additional months to earn money required to complete the journey home. Whereas the key witness may not have been the person who introduced the practice of gambling; the two economic ways of life – "ebara” and “wakareba” were introduced in Ankole by migrant laborers from Buganda. Migrant labor experience of the Banyankole, therefore, accelerated the monetization and commoditization of the economy in Ankole.

Migrant labor experience and Gender issues

Women in the sending communities suffered in two aspects: physical and psychological. While women and children in Sothern Rhodesia who remained at home in the country side bore some of the heaviest costs of labor migration, this study found a related situation among the Banyankole as far as migrant experience was concerned. The wives remained the breadwinners of the migrant families. They had to till the land for food and take care of the children. Normally, the tilling of land for food was the responsibility of the two: the husband and his wife and very specialized. But with migrant labor systems, the task had to lay in the hands and shoulders of one- the wife, with exception of those that had fairly early teenage children which was also very rare. Thus, the absence of the husband readjusted the wife's responsibilities and routine work. Flumera, recalls her experience, thus: “in the morning of a day, with my hoe on my shoulder, a panga in my left hand, my baby on my back, the ropes of three goats in my right hand followed by two children of the ages of 3 and 4 years would head for work in the garden. While in the garden, I would dig and by the time I finalized the last part of it the one I started with would be already bushy. Returning home was the same except that I would add a bundle of firewood on my head".

Other widows and wives of the migrants reported of leaking huts which became so challenging and at times resulted into sexual harassment by their in-laws and other village men. Consequently, fixed under such unbearable conditions, the migrant’s wife would succumb to sexual advances of either the in-law who had been left by the migrant to take care of the family or any other available man that thatched the leaking house. This was so because it was a common practice that whoever thatched the house had to sleep in it on the pretext of “checking” whether it was fully thatched. In most cases, this would culminate into unwanted pregnancies and immorality in form of adultery that was heavily punishable as was the case in southern Rhodesia, where older men pressed Europeans to pass the Native Adultery Punishment Ordinance of 1916, that provided for a huge fine or a year of imprisonment with hard labor to the adulterous woman (Curtin, Feierman and Vansina 1995, 501). Testimonies of migrant laborers informed the researcher that their sons and daughters born in this period were named **Kaheru,** name that is popular among the Banyankole implying that the child was produced from outside the family circle because they were not always sure that the children were surely their biological children after all on the return, the migrants would at times find their wives pregnant or with a young child or information in the village about a sexual affair with another man which at times led to divorce. These findings are related to those among the Romanians whose cases of divorce exponentially grew due to economic migration (Ivanoff 2016, 197).

In addition to physical torment was the psychological effects of loneliness and lack of intimacy. In many instances, the migrant laborers were young men, with really young wives and very new in their marriages. The absence of their husbands was, therefore, a very difficult experience tantamounting to denial of marital intimacy. Although this experience did not leave a

lasting legacy that was retold by the witnesses, such physical torment was worsened by the psychological torment. She felt the loneliness which was brought about by the absence of the husband and was always worried by the morality and discipline of the children. The long-time period of absence by the father from the home meant single parenthood with its consequences especially raping of the girl children and improper behaviour of the boys.

Women could not offer the necessary labor to produce enough food for the household in the absence of the man. This was because the traditional labor relations were highly specialized. Clearing of the bush was essentially the work of the man thus in his absence it became extremely hard and indeed impossible to carry out cultivation. This led to a serious shortage of food in the period 1958-60 similar to that of Rwanda-Burundi in 1943 (Powesland 1954). This famine was known as Rukuura-ihega or Rwaranda during which period, people resorted to wild fruits and other nature's provision as food which had never happened before. With the occurrence of this famine, men who would return had to go back to Buganda for one more time to clear up and finish up their "business" never to go back again. Informing their fellows, one after the other and group after the group, migrants returned home with some food crop varieties like sweet potatoes which are currently known as "Karebe Enganda" that would mature within three months. Migrant labor experience of the Banyankole therefore altered the role and position of women in the society: taking double responsibility in the home yet not paid and suffered psycho-social and physical torments.

The Baganda–Banyankole Perception

The Banyankole migrant labor experience affected the Baganda- Banyankole perception of each other. On the one hand, the experience created a superiority complex among the Baganda, because they were the ones who provided employment and wages for the Banyankole migrant laborers, the former tended to look at the latter with disdain (Mamdani 2001, 19-39) On the other hand, the Banyankole laborers felt humiliated by the treatment they got from migrant labor experience which challenged them towards avoiding and ending *okupakasa*. The end result of that attitude was the expansion of cash crop production sector and the lasting legacy was what Kabwegyere described as "the suspicious approach" (Kabwegyere 1995, 70).

At the time the Banyankole were seeking labor in Buganda, they were living a relatively lower standard of living than the Baganda as generalized by Bhavnani and Lacina migrants frequently live on the economic and social margins in their new homes (Bhavnani and Lacina 2018, 23). For example, in terms of dress, beddings, quality of housing and level of hygiene, the Baganda were better than the migrant laborers. This tended to promote the perceptions of superiority and inferiority (Geschiere 2009). In fact, several of the participants in the study recalled incidents where the Baganda landlords could not serve food to the Banyankole laborers on their plates, but rather served them on banana leaves modelled as plates, which contributed to the rise of nativism, a feeling of difference, suspicion and discrimination motivated by the political environment that divided natives' groups basing on custom and geography other than history and law (Mamdani 2012 and Lonsdale 2016).

Migrant labor experience and modern life

Migrant labor experience had a long-lasting legacy of modern life in Ankole on a few who stayed longer in Buganda and the majority who had one leg at the workplace and another at home as was the case in South Africa (Mamdani 2017, 218-222). While some few migrants had been able to rent and acquire some few plots in Buganda stayed there for more years with their families. These were mainly the few men who had just married without children. Mathias, the British commissioner, in his annual report for the year 1950, noted that: "an interesting feature of this movement [read southwestern labor migration route] is that about 26 per cent of men are accompanied by their womenfolk" (Uganda Protectorate 1951, 26). The testimonies of the migrant laborers do not suggest

that many of them stayed behind and settled. They gave four explanations as to why the Banyankole migrants did not settle. First, the majority of the migrants had stable families which they had left behind which they could not abandon, secondly, the majority of the Banyankole migrants did not like the conditions and despised the conditions in which they were working and living; and could not tolerate them, thirdly, the frequent attack of malaria and the experience of death of their colleagues dissuaded them to stay, and lastly, the Banyankole had developed land ownership ethic-great attachment to their Kibanja-Land, whereby they aspired to own and not to rent, and therefore could not be satisfied with renting land in the Baganda tenure system (Hanson 2003). Because of these four reasons, the Banyankole migrant laborers of the first generation returned to Ankole with many buried in Buganda forests while those of the second generation, the majority returned and a handful settled in Buganda.

Migrants were able to adopt modern living styles similar to those of their employers. Migrant laborers facilitated individualism and breaking of extended family ties. Mzee Katunda admired the lifestyle of his employer, he remembered, thus: "After a long period of work, the landlord would come back home, clean his feet and relax in his comfortable seat. When I went to his room to ask for Orubimbi for our evening meal, I saw him relaxing and hence decided to work relentlessly to purchase the same seat as you can see it here". This modern life also extended to the administration of the family and individual experience in many communities in Uganda (Meinert 2017). Mzee Katono informed the researcher that he was not worried about the absence of his children because lonely life was one of the major experiences he got from Buganda during the 1950s. He reported that a Muganda parent would live alone while his children were away in schools or even abroad. He further noted that such a parent would only enjoy the company of his/her children after returning usually twice or even once a year. This partly explains why the employers would enjoy the presence of the company of migrant laborers in their compounds since they too, assured them security.

Conclusion

The migrant labor experience had a great impact. Firstly, it led to the introduction of a cash crop-coffee, and secondly, it led to the alteration of the social ties of the Ankole society. The Banyankole migrant labor experience thus informed their socio-economic and political behaviour back home and influenced the penetration of capital in South Western Uganda which was consistent with the historical materialism theory.

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Comments on the Outstanding Debt, Liquid Debt and Due Claim in Romania

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ABSTRACT: On foreclosure, Romanian legislation lays down a number of requirements for its achievement. In this respect, the Code of Civil procedure stipulates the conditions that should be met by claims for their enforcement. In practice, foreclosure is performed in order to cancel the main claim and its accessories, like interests, penalties, other amounts granted according to the law, by an instrument permitting enforcement, and also enforcement expenses. In this paper, we intend to present issues related to the outstanding debt, liquid debt and due claim, as stipulated in article 663 under the Romanian Code of Civil Procedure, together with opinions and comments of the professional doctrine on the article mentioned above. Also, we brought up the legislative changes made on this body of law and we gave examples of matters in the national case law to describe various possible situations that could occur, in order to underline the special attention that must be given to the regulations on debt instruments, as it is a highly important and topical matter in Romania.

KEYWORDS: definite claim, liquid claim, enforcement, chargeable claim, enforcement conditions, enforceable title

Introductory notions regarding claims in Romania

In order to carry out the enforced execution, we must find ourselves in a situation where the claim is certain, liquid and chargeable, as provided for in Article 663, paragraph 1 of the Code of Civil Procedure. The three characters must be met cumulatively and reported to the enforcement instructions. The claim is certain when it is found in the executor title itself, which is provided for by paragraph 2 of the same article.

One example is found in Decision No 1754 of August 15, 1995, 4th Civil Section of the Bucharest Tribunal: "The appeal to enforcement started under an enforceable title represented by a legal assistance contract in which a fee of ROL 10 million was established and the fee of success in amount of ROL 180 million payable in the event of acceptance of the appeal against an auction."

The appeal was dismissed, the court considered that the definite nature of the claim was not fulfilled. If the judgment constituting an enforceable order is liable to form the subject of an appeal provided for by law, enforcement shall be carried out only at the creditor's risk. In this case the creditor will be required to reinstate the debtor in his or part rights, as appropriate, if the title is subsequently amended or disbanded.

The claim shall be liquid when its amount is determined by the executor itself or it may be determinable by means of the elements contained in its contents.

There are cases where the claim cannot be determined at a certain time, as is, for example, Civil Decision No 622 of March 7, 2002 of the Bucharest Court of Appeal, 4th Civil Section: "The establishment by enforceable title of a right of claim and the related obligation, which are not expressed in a liquid manner, is the case of labor disputes and in particular of the rights salary (...), since the obligation to pay wage entitlements is established until effective reclassification and cannot be determined at the time of delivery of the judgment."

If we are in a situation where the amount of the claim is determinable, its calculation will be made by the court executor by closure, which constitutes an enforceable order. Such closure may only be appealed with an appeal against enforcement.

The court executor shall determine the amount in the case of interest, penalties or other amounts to be given to the creditor, if the enforceable title stipulated their existence or granting. The court executor may also update the amount of the main obligation laid down in the money, regardless of its source, where there are criteria contained in the enforcement order, at the request of the creditor, and if the enforcement order does not contains no such criterion, the court executor shall, when updated according to the rate of inflation, calculated on the date on which the judgment became enforceable.

In the case of other enforcement securities, the update shall be made from the date on which the claim became chargeable until the date of actual payment of the obligation contained in any of these securities. Even if interest payments or other such amounts have been awarded by the enforceable title, the update of the amount of the main claim set in money may be made by the court executor.

Another way of determining the amount of the claim is by conclusion by the executing court, at the request of the creditor, with the summons of the parties, if the enforcement order does not include interest, penalties or other amounts, but they are appropriate creditor's law. That conclusion may be appealed within 10 days of the communication and subject to the common law regime. Where the debtor is deprived of the benefit of the payment period or his obligation is matured, we are in a situation where the claim is due (according to Art 663, para. 4 Code of Civil Procedure). If the time limit for payment of the claim has not been fulfilled, or the claim is not current, it is not possible to enforce it.

In particular, the Claim is not due if the payment deadline for the balance compensation has not expired. (Bucharest Court of Appeal, 5th case, Decision No. 2059/R of 30 November 2006).

There are also situations where "The forced execution of a contract giving rise to an obligation affected by a suspensive term which has not been fulfilled and has been established solely in the interest of the debtor of the payment obligation. In such a situation the claim to which the contract gives rise is not due" (District Court 2 Bucharest, Conclusion of March 5, 2007). If the debtor was given a reasonable time limit for payment by the creditor, or has been able to execute within a reasonable time calculated from the date of the application for legal proceedings, he will not be able to request a payment period.

"Also the obligation to make staggered payments, assumed by the debtor by pre-contract ... is a certain liquid and chargeable claim that may be subject to authorization of enforcement proceedings, since the payment of these sums of money has not been conditional on the existence or non-existence of a culmination" (Bucharest Tribunal, 4th civ., Decision No 627/R of 10 March 2011). And if the debtor evades the fulfilment of his obligations under the law on enforced execution, or dispels his wealth, he will not be able to apply for a payment deadline.

Follow-up acts and the commencement of enforced execution shall be carried out only after the cumulative requirements for the certifiable, liquid and chargeable nature of the claim have been met. Where there are other intervener creditors applying for participation in the distribution of the amounts resulting from the enforcement follow-up, this requirement is not necessary.

It is the executing court, when the enforced execution is granted, which checks these requirements, and if it finds that the conditions are not met, it will reject the application with which it was seized.

The debtor may request the annulment of the enforcement proceedings if a claim which is not certain or chargeable has been enforced, which is possible in the first case if the creditor does not justify his right to seek enforcement, there is no certainty that the holder owes him something or, if the creditor's right is not yet current, the execution being premature. In the latter situation the lender will have to wait until maturity.

It does not constitute a cause of invalidity of the prosecution of the lack of liquid character of the claim, but only a cause for deferral of enforcement until the exact determination of the amount due is determined. The creditor aims to obtain a good, a sum of money, or other material use from the debtor, so we can say that interest is usually material in the enforcement phase. There are also situations where interest can be moral, such as in the case of juvenile court

executions. Another element is that interest must be legitimate and exist at the time when enforcement is requested.

Opinions in doctrine

In the specialized doctrine it was considered that a claim is liquid when it has the amount determined by the very act of claim or is determinable together with other acts or circumstances (Tabără and Buta 2008, 1282).

Some of the authors said that the reference to the definite, liquid and chargeable claim of Law 36/1995 art. 101 restricts the scope of notarial acts that have enforceability, since the scope of authentic instruments is wider and these conditions are not met in all cases (Boldut 2016, 450).

This opinion is not shared by everyone so there are some authors who consider that an authentic act finding or extinguishing real rights, as long as they are not accompanied by other obligations, are not likely to be brought to fruition by way of execution because they comprise only effects of substantial law (Lazăr 2018, 152).

In this respect the meaning of the notion of debt is considered to be an extended one (Ţiţ 2018, 15 and 63).

Legislative amendments to Article 663 on the certifiable, liquid and chargeable claim

1. The HCCJ, the Board for the Unraveling of matters of law, Decision 34/2015: Whereas, in the second provided for in Article 628 (2) 3. The Code of Civil Procedure, the costs shall be subject to the concept of principal obligation in enforceable order and may be subject to updating in the context of enforced execution.

2. HCCJ, Appeal in the interest of the law, Decision 2/2014: "The High Court of Cassation and Justice held that, ...by virtue of the principle of full compensation of the damage, in addition to updating the claim established by those enforcement orders, moratorium interests may be awarded in the form of statutory interest for the staggered payment of the amounts provided for in the same securities.,,

3. The HCCJ in addition to unraveling questions of law, by Decision No 1/2003 of the European Parliament and of the Council of December 16, 2000 on the protection of individuals with regard to the protection of individuals with 60 of 18.09.2017 held with binding effect that it is possible to easily execute a claim guaranteed by a valid mortgage agreement, constituting an enforceable instrument, even if the right of claim itself is not established by a document constituting, in accordance with the legal provisions, enforceable order.

It follows that no distinction is imposed between mortgage agreements concluded under a credit agreement and mortgages concluded under another type of contract (e.g. sale-purchase, assignment, etc.). All such mortgages concluded under the New Civil Code may be implemented directly independently of the existence of another enforceable order.

It follows that, with regard to enforcement proceedings, by fulfilling the condition of the chargeable nature of the claim, the creditor has a right of choice over it.

The creditor may use the enforceable nature of the mortgage agreement (together or separately from the credit agreement under which it was concluded) or initiate a joint enforcement as any chirographer creditor and may not take into account its privileged quality to other creditors if he has an interest in doing so.

In accordance with Article 663 of the New Code of Civil Procedure, in order to be able to trigger any executional procedure, in addition to the chargeable nature of the claim to be executed, must be certain and liquid. Thus, in accordance with Article 13(2) of Regulation (EC) 2369 The new Civil Code, although a mortgage can guarantee any obligation, we must always discuss a liquid or liquidate obligation.

At the same time, once the due date provided for in the mortgage agreement is completed, the claim contained therein also fulfils the condition of chargeability. The certainty of the main

claim also results from the mortgage contract in whose content there are provisions on the amount of the mortgage claim, further strengthening this. We can therefore state that enforcement can be carried out in all cases provided that there is a valid mortgage agreement concluded in writing, regardless of whether the guaranteed obligation derives from an enforceable title or not, because in a mortgage contract are found specifically or by reference, all the essential elements to enable the start of enforced execution.

Conclusions

We may conclude that the enforcement of the main claim, as well as accessories or other amounts granted by an enforceable order, may be carried out only if the conditions laid down in Article 663 have been met cumulatively.

At present, domestic legislation on enforcement is sufficiently comprehensive and attaches a major importance to this matter, especially since in recent years all normative acts starting with the Civil Code and the Code of Civil Procedure have experienced numerous amendments, additions and updates, in order to comply with European Union law and all international treaties to which Romania is a party.

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Effects of Leisure Policy on Consumer Satisfaction: Setting the Stage for Drone Proliferation

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ABSTRACT: As the government investment in UAV and drone technology increases, many aviation laws and legal limitations are impeding the growth of drone industry as a part of leisure activity. This research investigates the intricate interplay of leisure policy and people's perception to set the stage for the drone proliferation in Korea as a new public leisure activity. Using the data from Survey on National Leisure Activity collected by the Ministry of Culture, Sports and Tourism, 10,602 respondents whose age were 15 or older had participated in this survey. For this empirical research, an independent *t*-test, correlation analysis, and regression analysis were conducted. The result of our analysis has revealed that people who are in leisure club are more satisfied with leisure itself, but they are less likely to evaluate the leisure industry positively. When tested whether or not people's leisure policy perception affects the leisure satisfaction, how people perceive leisure policy and the leisure satisfaction affect their perception of leisure policy. This means that leisure policy should be fully taken into account when launching a new type of leisure activity. We can safely conclude that to make a sound policy and to increase public satisfaction, we must delve into the intricate interplay of leisure policy perception.

KEYWORDS: drone, leisure policy, accessibility, happiness, leisure industry

1. Introduction

Diminishing work hours and ensuing opportunity for leisure activity will promote sport-leisure activities (Kim & Kim, 2009). When looking at the Olympic games, more and more sports are incorporating technology into their operation. For instance, fencing athletes are now wearing electric jacket to raise the scoring precision (Alvarez, Cristobal, Gamalinda, Malino, & Miguel 2008). Using the replay systems to help referees make the right call is applied in many sports arena (Dyer 2015**).** Aside from Olympic sports, leisure like car racing rely almost entirely on the engineering success. In a similar vein, a promising technology like drone has entered into the leisure industry and is flocking a wide array of users across the world.

Drone was first developed for air force aircraft or missile exercise, but the public often sees that drone encompass all unmanned aerial vehicles (UAV) (Lee & Kang 2019). The drone market was estimated to be about $25,100,000,000, will grow to be $67,300,000,000 by 2020, and will be $153,700,000,000 by 2025 (Kim 2017). Because of this upward trend, the Republic of Korea is investing large budget into the development and the proliferation of UAV (Kang 2017).

As we've just set foot in the fourth industrial revolution known for converging science and technological advances, the new concept of smart city has been proposed and is now being actively sought after (Townsend 2013). Many people, however, pose concern because the automated transportation and the use of drones in the smart city may generate an array of problems including privacy violation (Kim & Kim 2018; Lee & Kim 2017)

Indeed, drone will play a vital role in the smart, or future, city by transforming the transformation system and industrial mechanism (Petersen 2015; Lee 2015; Choi, Lee, & Li 2017). Because this smart city will be designed to promote public safety and life quality, the use of new technology is the center piece (Smith 2015). In this regard, drone technology is receiving attention throughout the world, and the government is endeavoring to expand the use of drone for agricultural, public, transportation, construction, disaster relief, environmental assessment, mass media, communication, aeronautic exploration and more (Kang 2017; Kim & Kim 2014; Lee & Kim 2017; Lee 2015).

Unfortunately, countries around the world are putting restriction on the use of drone technology. The likelihood of drone being used by terrorist and the drone threatening the public safety is limiting the proliferation of drone as a leisure medium. The Korean aviation law applies the same restriction on UAV as any conventional aerial vehicle (Ahn 2015).

As mentioned above, the Korean government is investing in the UAV, or drone technology. In 2015, a number of forums and policy hearing had been hosted by the government to modify aviation laws, certify drone pilots with legal credentials, and categorizing drones for leisure and business purposes (Ahn 2015). Such policy-making efforts are not bearing fruit yet because of aviation law and its restriction are still intact. One of the primary reasons that we can draw from these restrictions is because people cannot fly drone in city and its suburbs even. The contradiction that the government wants to promote drone industry but the public safety concerns is pressing down on its proliferation demands that we should investigate the intricate mechanism underlying leisure policy and leisure satisfaction. Despite this importance, little research had been conducted to unearth these complex relationships. Therefore, this research had been set out to lay an important foundation for technology-related leisure like drone to proliferate and take root as a leisure medium that would enrich the lives of many.

2. Literature Review

2.1 Definition of Drone

Drone is defined to be an unmanned aerial vehicle (UAV), which is an aervial vehicle without pilot onboard (Kim & Kim 2018; Choi 2017). Drone has many names like Unmanned Aircraft System (UAS), Remotely Piloted Aircraft (RPA), Remotely Piloted Aircraft System (RPAS), or Autonomous Aircraft (AA) (Min & Park 2018). When used for military purposes and mount missile, weapons and warhead, drone is called Unmanned Combat Aerial Vehicle (UCAV). Some researchers argue drone does not include the ones used for military purposes (Ahn, Park & Yoo 2014). But hot air balloons, rocket, kite, vertical take-off and landing (VTOL) do not fall in the category of drone (Lee & Kang 2019). By declaring the ten-year roadmap for the technological innovation for the unmanned vehicle, the Ministry of Science and ICT began to invest in the six core technologies critical to unmanned vehicles: detection, recognition, communication, artificial intelligence, power source, transportation, and human (Lee & Kang 2019). Recently, the concept of unmanned vehicle has evolved to be a vehicle maneuverable autonomously or remotely, which means that it can automatically detect and move on its own (Kim et al. 2017). This means that drone technology is being studied and improved to achieve a complete automation to avoid crash, analyze imageries, and maneuver without human control. In the agricultural industry, unmanned automated machineries are widely being used, not to mention the drone application in marine or aeronautic purposes (Lee 2016; Kang, Jung, & Hwang 2018; Kim et al. 2017).

2.2 Drone Policy

Because drone technology has been born out of military environment, drone-related laws and policy are deeply nested in the context pertaining to military ecology (Lee & Kang 2019). Also, different definitions and cultural perception about drone makes it hard to come up with sound policy to regulate the drone industry. With further endeavor to minimize the potential dangers of drone, the concept of drone must take root in civilian context. Cities are meant for humans, and drones are being developed to make human life more convenient and safer, we should revise the concept (Lee & Kang 2019). As the expansion of drone industry is already well on its way, the drone proliferation, which will be accelerated by the sound drone policy, may help our economy by promoted employment, commerce, and more.

2.3 Leisure Sports Motivation

Often, leisure and sports are interchangeable used in our society. For policy makers to devise sound policy that would promote a leisure and sports industry like drone, they should understand how

people set their foot in a particular leisure activity. Generally, people's motive to participate in leisure activity can be found in so-called select property. Select properties refer to the process and standards through which potential consumers register a need, seek pertaining information, comparing alternatives, decision making, and evaluating the made decision to determine whether or not they will make the same decision in the future (Sohn & Shin 2008; Yoon 2010). Though this select property is largely affected by the availability of a particular leisure, we must understand how the government's policy effort play a part in reinforcing this motive.

2.4 Driving Factors of Leisure Participation

Though many leisure activities are cost-free, technology-based leisure like drone does not fall into this category. So we ought to examine how this cost incurring leisure activities attract potential consumers. If we were to put a leisure industry into a service category, then we can analyze from the consumer values and a service mechanism. A consumer value is formulated after experiencing an offer a particular service. (Jensen & Hansen 2007). This perceived value that appear after consumers experience a service is equivalent to the overall evaluation of the service. (Zeithaml 1998). This means that after consumers experience a leisure activity, they come up with a value, which may translate into the success of the leisure industry. Of many factors that will reinforce this consumer experience, the government policy is the centerpiece. This may sound foreign to people who see leisure as nothing more than a private business. But in countries like Korea, where policy governs and perceives leisure industry as an important channel fueling the country's economy, leisure industry and associated policymaking efforts cannot be disregarded. When measuring the success of a leisure policy, we must understand how leisure related factors operate to account for the consumer satisfaction. Only then can we accurately predict the effects of leisure policy that would set the stage for the coming age of drone use in our society.

Research Questions

1. Is there a perception difference in leisure activity by the participation in leisure clubs?
2. What variables are correlated with people's overall satisfaction with leisure?
3. Does people's leisure policy perception affect the leisure satisfaction

3. Analysis

3.1 Data Collection

The data used in this analysis was drawn from the 2016 Survey on National Leisure Activity conducted by the Ministry of Culture, Sports and Tourism. The data were collected from September and October, targeting 10,602 respondents whose age are 15 or older. In this analysis, some of the outliers and insincere responses were eliminated to increase the accuracy of data interpretation.

3.2 Methods

To investigate the research question above, following methods had been carried out. To check to see if each question item can point to each psychological construct, item reliability was measured using Cronbach's coefficient *alpha*. To see the effects of joining leisure club, an independent sample *t*-test was conducted. To see how variables are correlated, Pearson's Correlation analysis was conducted. To see what variables explain the people's overall leisure satisfaction, a linear regression analysis was conducted.

Table 1. Descriptive Statistics

	N	Mean	SD	Min	Max
Leisure Satisfaction	937	4.65	1.06	1	7
Gender	937	.20	.40	0	1
Time (hrs.)for Leisure	937	3.77	1.36	1	12
Joined Club	937	.17	.38	0	1
Assess Leisure Industry	937	5.29	.81	2.33	7
Satisfied w/ Leisure Ind	937	5.03	.84	1.67	7
Accessibility to Leisure	937	4.62	1.05	1	7
Policy Importance	937	5.72	.74	2	7
Policy Satisfaction	937	4.94	.88	1	7
Leisure is Important	937	5.53	.89	2	7
Leisure is Positive	937	5.69	.85	4	7
Work-Life Balance	937	4.04	1.12	1	7
Happiness	937	7.23	1.27	2	10
Valid N	937				

Table 1 shows the descriptive statistics of the collected sample. People's leisure satisfaction was approximately 4.65 (SD = 1.06) in the 7-point Likert scale. Looking at the gender composition, only 20% (SD = .40) of our sample was drawn from female responses. When asked about how many hours a day people engage in leisurely activity, our respondents said that they spend the average of 3.77 (SD = 1.36) hours. About 17% of our respondents have joined leisure-related clubs. When asked what people think of the leisure industry of Korea, most of our respondents think it's well above average (M = 5.29, SD = .81). When asked how satisfied they are about the leisure industry of Korea, the respondents were fairly content (M = 5.03, SD = .84). When asked about how accessible leisure activities, the respondents said the accessibility is in the middle (M = 4.62, SD = 1.05). When I asked them about the importance they place on leisure policy, the respondents deemed it is fairly important (M = 5.72, SD = .74). When asked about how satisfied they are about existing leisure policy, they satisfaction was found to be in the middle (M = 4.94, SD = .88). The respondents do think leisure is important aspect of life (M = 5.53, SD = .89). They also think leisure activity has positive effect on their life quality (M = 5.69, SD = .85). When asked about whether or not they enjoy the work-life balance, respondents' answer fell in the middle range (M = 4.04, SD = 1.12). Lastly, the respondents' level of happiness fell in the upper tier of the 10-point scale (M = 7.23, SD = 1.27).

3.3 Results

Table 2. Items Measuring Leisure Industry

Sub-Domain	Question Items	*alpha*	
Evaluating Leisure Industry	◆ I think there is decent leisure facility in our country. ◆ I think there is decent leisure goods industry in our country. ◆ I think there is decent leisure service industry in our country.	.79	.81

Satisfied with Leisure Industry	◆ I'm satisfied with the leisure facility *(hotel, condo, theme park, park, golf course, ski resort, sports complex*) in our country. ◆ I'm satisfied with the leisure goods industry in our country. ◆ I am satisfied with the leisure service industry (exhibition, performance, recreation service, etc.) in our country.	.81 .83
Accessibility of Leisure Facility	◆ I am aware of the public leisure facility in my neighborhood. ◆ I think there is enough leisure facility in my neighborhood. ◆ I am aware of the leisure program available in my neighborhood. ◆ I think leisure program is accessible in my neighborhood.	.90

Table 2 shows the question items measuring the status quo of leisure industry in Korea. Question items under *evaluating leisure industry* and *satisfaction with leisure industry* appears to have high correlation (r = .81). However, I wanted to see how each of these factors contribute to the leisure satisfaction itself. Therefore, the two were included in our analysis as separate factors. Also, accessibility to leisure facility is an important factor that could explain the leisure satisfaction. And the Cronbach's coefficient *alpha* of these question items was .90.

Table 3. Items measuring Leisure Policy

Sub-Domain	Question Items	Cronbach's Coefficient *alpha*
Importance of Leisure Policy	◆ Establishing policy to build various leisure facilities is important. ◆ Developing quality leisure program is important. ◆ Fostering or training experts for leisure program is important. ◆ Promoting leisure clubs is important. ◆ Supporting leisure for disadvantaged groups of people is important. ◆ Legislating laws and policy for quality leisure is important. ◆ Promoting legal system for holiday to enjoy leisure is important.	.87
Satisfied w/ Leisure Policy	◆ I am satisfied with existing policy that promotes leisure facility. ◆ I am satisfied with existing policy to develop leisure program. ◆ I am satisfied with existing policy that trains leisure experts. ◆ I am satisfied with existing policy that promotes leisure club. ◆ I am satisfied with existing policy that provides leisure opportunity for disadvantaged groups of people. ◆ I am satisfied with existing laws and system that would offer quality leisure opportunity. ◆ I am satisfied with existing policy that offers more holidays to enjoy leisure.	.91

Because one of the primary foci of this research was to identify effects of leisure policy, I checked Cronbach's coefficient alpha for question items pointing to *how people place importance on leisure policy* (r = .87) and *how satisfied they are with existing leisure policy* (r = .91).

Table 4. Question Items for Other Variables

Sub-Domain	Question Items
Leisure is Important	◆ I think leisure activity is essential part of life.
Leisure is Positive	◆ I think leisure activity has positive effect on my life (happiness, health, family life, etc.).
Work-life Balance	◆ I think I enjoy work-life balance.
Happiness	◆ In the scale of 10, how happy are you?
Leisure Satisfaction	◆ I am satisfied with my involvement in leisure activity.

Table 4 shows the question items for other variables included in this analysis. Because each of this variable is consisting of a single question item, reliability of this psychological construct cannot be determined with certainty.

Table 5. *t*-test by Leisure Club Involvement

		No Club (n = 777)	Joined Club (n = 160)	Mean Difference	t	p-value
Leisure Satisfaction	Mean (SD)	4.61 (.04)	4.86 (.09)	-.24	-2.66	**.01**
Gender	Mean (SD)	.21 (.01)	.13 (.03)	.08	2.41	**.02**
Time for Leisure	Mean (SD)	3.70 (.05)	4.07 (.14)	-.37	-3.12	**.00**
Assess Leisure Industry	Mean (SD)	5.33 (.03)	5.14 (.07)	.19	2.66	**.01**
Satisfied w/ Leisure Industry	Mean (SD)	5.04 (.03)	4.98 (.03)	.06	.85	.40
Accessibility to Leisure	Mean (SD)	4.67 (.04)	4.38 (.09)	.29	3.18	**.00**
Policy Importance	Mean (SD)	5.72 (.03)	5.72 (.06)	.00	.01	1.00
Policy Satisfaction	Mean (SD)	4.97 (.03)	4.77 (.09)	.20	2.64	**.01**
Leisure is Important	Mean (SD)	5.49 (.03)	5.69 (.08)	-.19	-2.53	**.01**
Leisure is Positive	Mean (SD)	5.64 (.03)	5.94 (.07)	.30	-4.04	**.00**
Work-Life Balance	Mean (SD)	4.02 (.04)	4.13 (.09)	-.10	-1.06	.29
Happiness	Mean (SD)	7.18 (.05)	7.48 (.10)	-.30	-2.73	**.01**

Next, Table 5 shows an independent sample t-test by the respondents' participation in leisure club. When compared the mean differences, the overall leisure satisfaction by the participation was statistically significant (t = -2.66, p = .01), so we can see that people who are in leisure club are more satisfied with overall leisure status quo in Korea. The gender difference was also statistically significant (t = 2.41, p = .02), so women are less likely to join leisure club. The time (hours) people spend on leisure activity was statistically significant (t = -3.12, p = .00), so we can say that people who are in leisure club spend more time engaging in leisure activity. How people assess(evaluate) leisure industry was statistically significant (t = 2.66, p = .01). Here, those who are in leisure club are more likely to evaluate existing leisure industry negatively. In a similar vein, those who are participating in leisure club are less likely to think that people's accessibility to leisure activity is in an acceptable range compared to those who aren't (t = 3.18, p = .00). Those who are in leisure club are less likely to be satisfied with leisure policy (t = 2.64, p = .01). Those who are in leisure club are more likely to place importance of leisure activity (t = -2.53, p = .01). Those who are in leisure club are more likely to think leisure activity has positive effect on their life quality (t = -4.04, p = .00). Lastly, those who are in leisure club are happier with their life than those who aren't (t = -2.73, p = .01).

Table 6. Pearson's Correlation Analysis

	Leisure Satis	Gender	Leisure Time Weekdays	Joined Club	Assess Leisure Industry	Satisfied w/ Leisure Indus.	Access to Leisure	Importance of Leisure Policy	Satisfied w/ Leisure Policy	Leisure is Important	Leisure is Poisitive	Work-Life-Balance
Gender	.00											
TimeWeek	.05	.05										
JoinedClub	.09**	-.08*	.10**									
Assess Leis Industry	.21**	.03	-.07*	-.09**								
Satisfied w/ LeisIndustry	.23**	.02	-.10**	-.03	.68**							
Access to Leisure	.23**	.04	-.18**	-.10**	.47**	.46**						
Importance of Leisure Policy	.09**	-.04	.07*	.00	.33**	.23**	.18**					
Satisfied w/ Leisure Policy	.29**	-.02	-.17**	-.09**	.51**	.58**	.50**	.35**				
Leisure is Important	.18**	.00	.14**	.08*	.06	.03	-.09**	.24**	.01			
Leisure is Positive	.14**	.00	.17**	.13**	.08*	.07*	-.12**	.24**	.02	.71**		
Work-Life Balance	.50**	.04	.00	.03	.14**	.12**	.21**	.04	.21**	-.03	-.06*	
Happy	.41**	.07*	.02	.09**	.27**	.27**	.25**	.19**	.33**	.21**	.24**	.21**

* p < .05 ** p < .01

The primary focus of this correlation analysis is to see the pair-wise correlation of our people's overall leisure satisfaction with other variables, we should look at the first column. Most of the variables are significantly correlated with the leisure satisfaction. Interestingly enough, the correlation of gender is close to zero, though it is not statistically significant. With leisure satisfaction, a strong correlation was found with people's work-life balance (r = .50, p <.01) and overall happiness (r = .41, p < .01).

Also, the three variables indicating people's perception towards Korea's leisure industry—(1) assessing leisure industry, (2) satisfaction with leisure industry, (3) accessibility of leisure—seem to be highly correlated with people's satisfaction with leisure policy. Based on this research, further research is advised to ascertain the relationship discovered.

Table 7. Regression Model

	Unstandardized Coefficient		*t*	*p*-value
	B	Standard Error		
Constant	-.16	.31	-.53	.60
Gender	-.09	.07	-1.36	.17
Time Spent	.05	.02	2.21	**.03**
Joined Club	.12	.07	1.67	.10
Assess Leisure In.	-.01	.05	-.27	.79
Satisfied w/ Leis In.	.07	.05	1.44	.15
Access to Leisure	.04	.03	1.31	.19
Important Policy	-.09	.04	-2.23	**.03**
Satisfied w/ Policy	.13	.04	3.14	**.00**
Leisure is Importa.	.18	.04	3.98	**.00**
Leisure is Positive	.00	.05	-.02	.99
Work-Life Balance	.39	.03	15.4	**.00**
Happiness	.20	.02	8.44	**.00**

Regression Equation
"$\hat{Y}$ = -.16 - .09 (Gender) + .05 (Time Spent) +.12 (Joined Club) - .01 (Assess Leisure Industry) + .07 (Satisfied with Leisure Industry) + .04(Access to Leisure) - .09 (Important Policy) + .13 (Satisfied with Leisure Policy) +.18 (Leisure is Important) + .00 (Leisure is positive) + .39 (Work-Life Balance)+ .20 (Happiness)"

I fitted a regression model predicting people's leisure satisfaction. And the F-Statistics wa 49.13 (12, 924), p < .001; therefore, the model's predictability was higher than a model using mean values of the independent variables to predict the leisure satisfaction. The R^2 value of the model was .39, meaning that approximately 39% of the variance in leisure satisfaction is explained by the independent variables included in this regression model.

For every one unit increase in the time people want to spend for leisure activity, there is a predicted increase of .05 (p = .03). And for every one unit increase in how people place importance in a leisure policy, there is a predicted decrease of .09 (p = .03). For every one unit increase in how satisfied people are with existing leisure policy, there is a predicted increase of .13 (p =. 002). For every one unit increase in work-life balance, there is a predicted increase of .39 (p < .001). Lastly, for every one unit increase in happiness, there is a predicted increase of .20 (p < .001). One of the important takeaways from this regression model is that the condition or the

status of the leisure industry does not explain the people's overall satisfaction with a particular leisure industry (all three variables were not statistically significant). On the other hand, how people are satisfied with a particular leisure policy or how much importance one place on a particular leisure policy positively explain the increase of leisure satisfaction.

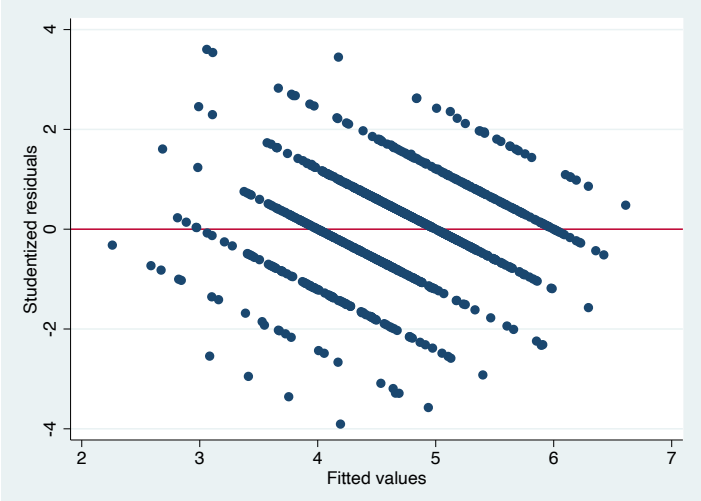
Table 8. VIF

	VIF	*1/VIF*
Gender	1.02	.98
Time Spent	1.09	.91
Joined Club	1.06	.94
Assess Leisure In.	2.15	.47
Satisfied w/ Leis In.	2.23	.45
Access to Leisure	1.58	.63
Important Policy	1.29	.77
Satisfied w/ Policy	1.92	.52
Leisure is Importa.	2.06	.49
Leisure is Positive	2.19	.46
Work-Life Balance	1.11	.90
Happiness	1.28	.78
Mean VIF	*1.58*	

Regression Equation

To check to see if there's a concern for multicollinearity in this ordinary least square (OLS) regression analysis, I've checked the variance inflation factor (VIF) as suggested by James, Witten, Hastie, & Tibshirani (2017). And it is known that a VIF value greater than 10 indicates a high correlation, suggesting that there is multicollinearity. As illustrated in Table 8, however, no VIF value is greater than 10. Therefore, the concern for multicollinearity has been ruled out from the analysis.

Figure 1. Constant Variance Assumption



I've checked the constant variance assumption—or linearity assumption—by plotting residuals. And as illustrated in [Figure 1], no curvature, which suggest a nonlinear trending, was found. Thus, we don't have to be concerned with the chance of this model violating the linearity assumption.

Figure 2. Normality check via Histogram & QQ-plot

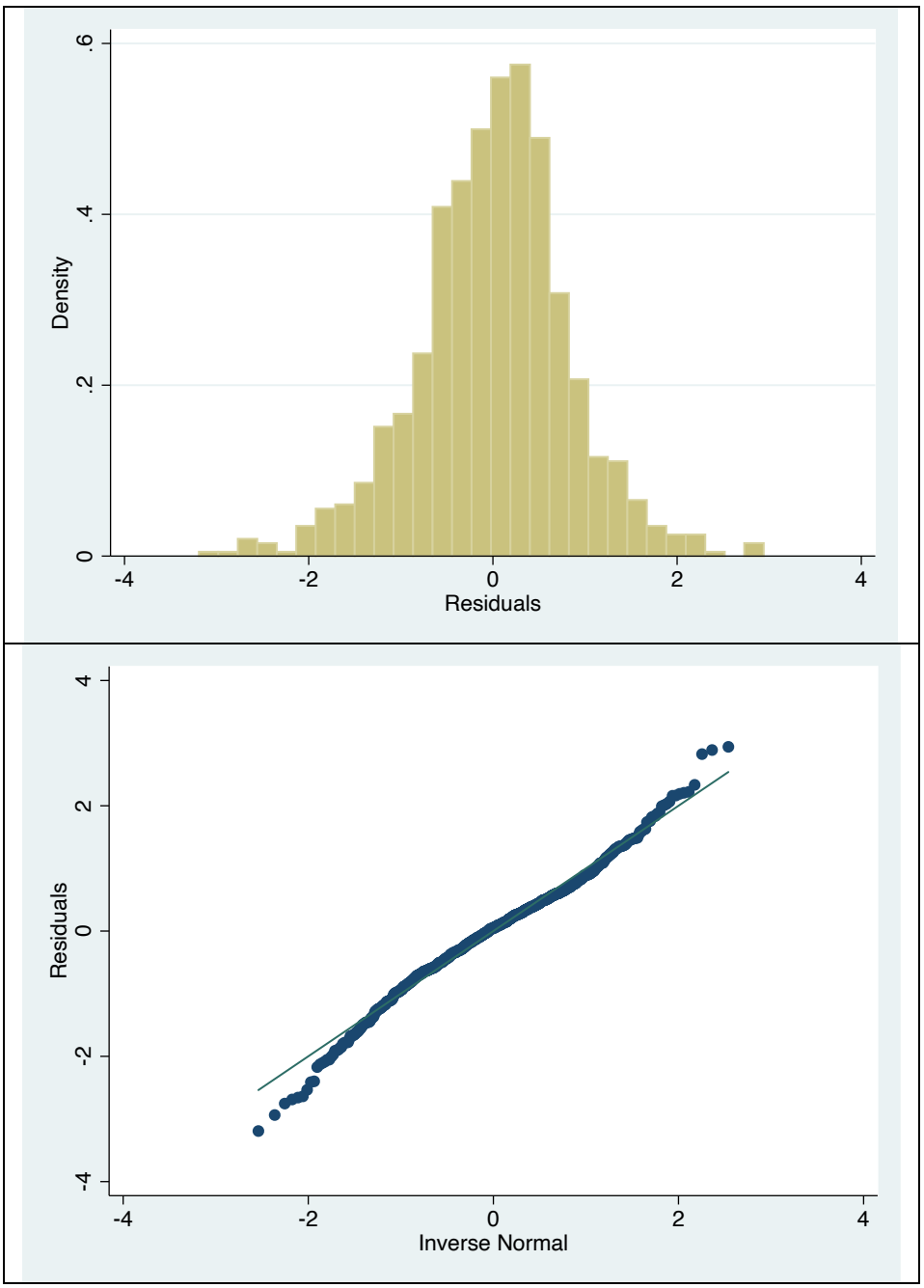


Figure 2 shows the *histogram* and *qq-plot* to visually check the normality assumption. The histogram shows that residuals are more or less drawing a bell-shaped curve, we can say residuals are normally distributed (Field, 2009). Also from qq-plot, most residuals fall neatly around the line, we do not need to be concerned with the chance of violating normality assumption. Also as a reference, I've checked the skewness and kurtosis of the residuals, skewness was -.21 and kurtosis was 4.07. Since skewness greater than the absolute value of 2 suggest that it is not sufficiently normal, -.21 was clearly in the safe range. Also, for the kurtosis an absolute value greater than 7 suggests that there is a concern. However, 4.07 means it is in an acceptable range.

Conclusion

When looking at the difference caused by leisure club participation, I've found a contradicting phenomenon. Those who are in leisure club are more satisfied with leisure itself; however, they are *less* likely to evaluate Korea's leisure industry positively. Also, they are less likely to think that people have sufficient accessibility to leisure activity. And they are *less* likely to be content with leisure policy. Better yet, they are *more* likely to be happy with their life. Though we cannot link these findings with evidence from this analysis alone, we may reasonably claim that these people who are engaging in leisure activity through leisure club have more or less objective opinions about the leisure policy and its effects.

Next, when we look at the variables associated with leisure satisfaction, (1) how people evaluate the status quo of leisure industry, (2) how people are satisfied with leisure industry, (3) the accessibility to leisure, and (4) how people are satisfied with leisure policy were moderately correlated with the overall leisure satisfaction ($\underline{r}$ = .21 ~ .29). More importantly, (5) people who value work-life balance and (6) how happy they feel about their life in general are strongly correlated with the overall leisure satisfaction ($\underline{r}$ = .41 ~ .50). So these factors are the targets that policymakers should take into account when devising sound leisure policy.

When it comes to the question whether or not people's leisure policy perception affects the overall leisure satisfaction, both the importance people place on leisure policy and the leisure policy satisfaction affect the leisure policy itself. Drawing from this finding, we can safely conclude that leisure policy is the centerpiece of launching a new type of leisure medium in Korea.

Therefore, to make a sound policy that would promote public satisfaction and would ensure a policy endeavor, this leisure policy perception must be carefully examined. Also, those who partake in leisure club can be good target groups that can point policymakers into the right direction as they set the stage for the leisure industry—particularly drone industry—in Korea.

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The Historical and Legal Aspects of Car Theft

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ABSTRACT: It is well known that technology has contributed on a large scale in the last 300 years to the improvement of human life and society in general. One such element is represented by the car, a machine capable of covering a significant distance in a short amount of time, faster than any horse or other animal used for transportation. Recognizing the benefits brought to commerce, security and comfort within large scale domains, we cannot neglect the fact that this invention is a huge step for everyday individuals as well. In this era a car is a necessity, thus having it stolen could result in severe consequences for some of us. Considering this aspect, the current paperwork will analyze how a car can be stolen, the methods used by the judicial police for finding the author, the legal implications and ways of prevention. The main focus will be on how the identification, collection and preservation of the traces left behind by the thief are completed alongside the research done in the forensic laboratory, these activities having the purpose of uncovering details which could serve in finding the truth about the illegal action and the person responsible for it.

KEYWORDS: truth, traces, details, laboratory, research

Introduction

In accordance with the criminal law doctrine the action of stealing can be defined as an illegal act done in order to affect another person`s patrimonial values by taking a certain object from the victim's possession without his acceptance, the purpose being that of acquiring the product in an unjust way (Udroiu 2015, 204).

Humans have gathered into communities in order to satisfy basic needs such as security, food and reproduction. With the passing of time, the tribes evolved into empires, kingdoms and eventually to states. The present form of a democratic state protects and assures certain right and freedoms to their citizens, reprehending any opposite behavior towards its fundamental values through the institutions facilitated with this task and with the help of the coercive force of the state. By stealing an asset from its owner, his right to property is disregarded by the author. As a direct consequence, a social value instated and guaranteed by the constitutional and civil legal regulations is directly put in danger.

Although today we have complex laws created in order to protect the freedom of the individual to have, possess and use the goods in his property as he sees fit, the stipulations made in order to prevent or punish the act of theft have gone through several evolution stages since immemorial times.

Legal stipulations in regards of stealing throughout history

Two thousand years ago the continent of Europe had an abundance of civilizations which left cultural marks that withstood the test of time.

Examples of such communities were the people of Carthage with their military ingenuity, the philosophers of Greece, the juris consults of the Roman Empire and the druids from today's territory of Great Britain. Relevant for the paperwork, we will first expose the forms of law implemented during the period of the Roman Empire.

Three stages can be distinguished during the lifespan of one of the most powerful social structures of the past, those being the period before the Law of the XII Tablets, the period under the governance of the dispositions of the XII Tablets and finally the classic period.

Before the introduction of the Tablets, stealing was punished in convergence with the locally accepted customs by which the owner could avenge his loss against the author. Afterwards, the regulations of the tablets imposed alongside the old methods the possibility of the magistrate to intervene. Following the progress implemented in the classical period, we can remark a more complex analyzation of the presented illegal action due to the appearance of concepts such as: the abuse of trust, the stealing of an asset by the owner himself in case he left it as an insurance to his creditor and the concretization of terms like bad faith or the will of the proprietor (Molcuț 2011, 340-343).

After the disappearance of the Ancient World, a transition took place until the Middle Ages, during which regulations could be found in religious texts such as The Old and New Testament, The Koran or The Talmud.

During the time before the Modern Era, in the space which today serves as the territory of Romania, several documents were published, these served as the first law codes for the middle aged kingdoms of our ancestors. The term used to name these laws was "codices", and so in the year 1640 is was brought to the public's attention the Codices of Govora and in 1646 the Codices of Vasile Lupu (Cernea 2008, 110).

Nowadays, as a result of the general progress of civilization, the legal norms which refer to stealing and, especially for the presented subject, the illegal acquisition of an automobile are far more complex, precise and provide a more suitable form of punishment.

Possible scenarios in which a vehicle can be stolen

Generally, a good can be taken away from someone either as a result of the skills developed by the felon for this kind of operation or due to the neglect shown in the owner's behavior. In this manner, a person can leave his car unlocked with the keys in the contact because he had to rush back in the house in order to retrieve a forgotten element necessary for him at that time. Next, a stranger can pass by and simply enter the vehicle and drive away. This is a typical case in which we can observe the lack of precaution and prevention.

No less important is the possibility that an individual can improve a set of talents which can serve in illegal actions. For the analyzed topic we will list the following: the ability to unlock a car without it`s set of keys; the skill of deactivating the alarm of the vehicle; the way in which an engine can be started by only using the wires and so on.

Fortunately, every step taken in the process of completing an illegal action leaves behind a set of traces. These "footprints" can be used to help determine how the act was committed and what the identity of the outlaw is.

The identification, preservation, conservation and analyzation of the traces

In the situation that a car had been stolen and the owner reported the event to the authorities, the process of finding the truth will consist of the next components: the forming of the team and their arrival at the scene, the research performed on the spot and the analysis done in the forensic laboratory.

Firstly, the team will be composed of the forensic prosecutor who leads the operation, the officers and forensic specialists from the police department and other possible experts from various domains such as engineers, mechanics or biologists (Buzatu 2013, 29).

Secondly, the members will proceed with the investigation of the place of deed. This is an important step because the success of it is directly proportional to the quality of the results obtained later in the forensic laboratory.

As main objectives for this stage we can mention: the direct investigation of the place where the illegal act was performed; the correct understanding of the event; the discovery, fixing and lifting of the traces; the obtaining of data in regards of the methods used by the author; the

identification of possible witnesses and the elaboration of a general version in regards to the unjust action (Stancu 2015, 360).

Precursory to the investigation, the team must determine the place where the action was completed alongside fixing the circumstances which with the passing of time can suffer changes or can completely disappear and they also have to prevent and to dispose of any imminent dangers, plus the withholding of any suspicious suspects (Stancu 1997, 19-21).

For the procedure itself we can distinguish two parts, the static one which involves the initial contact with the desired location - it can be resumed to a simple observation (the team does not attempt any contact with the circumstantial elements), and a dynamic part that includes a more complex approach involving the examination of objects, the maneuvering of them as well as the identification, preservation, conservation of the traces and the material means of evidence (Ionescu 2007, 28-35). The team has several options at their disposal in order to collect the data, for example sketching the area of interest or the orientation, detailed and digital photography (Nechita 2009, 47).

Thirdly, after the information has been gathered and secured it is transported to a laboratory where the forensic expert will start the forensic identification. The matter of finding the true identity of someone can be defined as the procedure based on technical and scientific methods by which a subject of the law who has affected a legally protected social norm by his own actions can be found out and brought to justice (Ionescu and Sandu 2011, 47).

In the forensic laboratory a large focus is placed on the method of comparison. This way of identification assumes that a trace is compared with another model either one created or already present in the database.

The study of the evidence found at the scene starts from a general point of view and ends with the main attention on the special characteristics so that the correct circumstances are deduced and the one responsible for the event can be found (Ionescu and Sandu 2011, 110-121).

Taking into consideration the information presented above, we can state that with such a large arsenal at their disposal the judicial police could shed light on almost any case of vehicle theft.

Conclusions

In order to prevent a car theft from the perspective of the owner, one should exercise caution, attention to surroundings and double checking if all the security measures to his property have been taken. Society should offer its citizens possibilities to fulfill their desires on a material and spiritual level so that nobody would take into consideration the use of an illegal act as a method for self-accomplishment.

If a situation of vehicle stealing came into existence, there are legal implications present for both sides, the target having to press charges and to wait possibly years in order to see the case resolved and the suspect needing to come to terms with the fact that he might have to serve several years in prison.

The forensic expertise is a complex operation reuniting methods from different domains with the end goal of finding the truth about the criminal activity and assisting the judicial organs in delivering justice.

As technology evolves from one particular form into a multitude of branches so does the phenomenon of stealing. In other words, the more suitable and advanced an item is, the more a subject of the law with low financial status may be tended to take it through a non-legal way for his own use. Therefore, the domains tasked with preventing and tackling with these type of events must have at their disposal the latest model of equipment alongside the most actual and accurate knowledge on the matter.

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The Importance of Reconstitution as a Criminalistics Tactical Procedure

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ABSTRACT: The advantages of reconstitution in finding out the truth, the necessary requirement for obtaining a fair criminal conviction, are undeniable, of which it is noticeable to carry out the verification directly by the judicial body regarding the possibility of committing the criminal facts, in the way in which they were claimed by denunciation, complaint or the notification of ex officio, and of the perception of these criminal facts by the eyewitnesses or the persons directly involved in their commission. With the help of this tactical procedure, a series of questionable evidence or simple indications can be confirmed or removed, which, in the absence of the reconstitution, would make the investigation more difficult than it would help the criminal investigation bodies. In any case, the conclusions of a reconstitution, like any other means of proof in the criminal process, do not have a special probative value, by themselves, but must be appreciated and analyzed in relation to the other evidence administered in the criminal case, as required by the rules established in par. 97 of the Code of Criminal Procedure.

KEYWORDS: reconstitution, tactical procedure, eyewitness, criminal investigation, criminal facts, truth, criminal conviction, judicial body, evidence, rules

The notion, object and functions of reconstitution

Due to the need to find out the truth through as many ways as possible, over time, in criminal law, various procedures have been regulated that have the role of facilitating the finding of the truth or obtaining new evidence in the criminal investigation of a crime.

Such a regulated procedure is also the reconstitution of the scene, of the conditions and the way in which the act was committed.

According to the provisions of Article 193 of the new Code of Criminal Procedure, depending on various factors (location, weather, light), the reconstitution can be completed in whole or in part and only if the judicial body or court considers it necessary.

The reconstitution is essentially an ancillary procedure activity, a trial procedure aimed at the criminal trial purpose (Dongoroz, Daringa, Kahane, Lucescu, Nemes, Popovici, Sîrbulescu, and Stoian 1969, 81), an ancillary form of on-the-spot investigation through which can be checked whether the facts and circumstances of a case under investigation have been committed in a given manner.

The characteristic defining feature of the reconstitution is shaped by the experimental reproduction of the conditions existing at the time of the commission of a criminal offense, for the purposes of direct verification by the judicial body of their authenticity, of their perception possibilities and of verification of data obtained by other means of evidence: Statements by suspects or defendants, clashes (Stancu 2015, 543).

It is ordered at any time of the trial, by resolution of the judicial body, after the commencement of the criminal prosecution or by a conclusion ordered by the court in the trial phase (Buzatu 2013, 132).

They represent functions of the reconstitution, verification and specification of some data by means of full or partial reproduction, drawing conclusions not only on the veracity of the statements made by the accused or defendant, or of witnesses, but also on the versions drawn up in the respective case (Pop 1947, 429) and the possibility of further evidence.

After the reconstitution has been carried out, evidence which were previously considered as mere indications or if doubts existed on certain evidence, may become serious conclusive

evidence or prove to be useless and irrelevant in the criminal investigation of the act which is the subject of the reconstitution.

Although of great importance as the forensic tactics used in criminal prosecution, as provided for in Article 97 new Code of Criminal Procedure, the reconstitution, as well as other means of proof, cannot be attributed a particular evidentiary value, the conclusions drawn from the specification and verification of the facts are to be appreciated in relation to the other evidence administered in the case (Papadopol and Popovici 1977, 369). Depending on the intended use of the result of the reconstitution, it may be split into:

- Reconstitution aimed at checking the veracity of witness statements (Stancu 2015, 545) obtained prior to their reconstitution;
- Reconstitution aimed at checking the perception possibilities (Stancu 2015, 545) which may or may not be influenced by external factors;
- Reconstitution designed to check the possibilities of certain actions under given conditions (Stancu 2015, 545), also used to establish whether an offense has been simulated for the purpose of concealing another offense.

The use of the reconstitution typologies listed above helps judicial bodies to know as well as possible where the act was committed, and also gives them the possibility to check several versions of the offense under investigation.

- It is not possible to do the reconstitution without consideration for and following the necessary preparatory work, highlighting the most important:
- Inviting witnesses and the representative of the unit to the place where the reconstitution will take place;
- Taking a photograph of where the act was committed;
- Verification and re-arrangement of the place of reconstitution, in order to reproduce as accurately as possible the conditions existing at the time of the fact;
- Installation and retraining of participants;
- Establishing signs and arrangements for linking participants.

The reconstitution plan shall include the date and place, purpose, manner of operation, participants, the material insurance (the objects used, from which they were acquired, the technical means of determining the results, the means of travel), the date and place of the training and the name of the person who carried out the training.

The arrangement of the reconstitution

Under the provisions of Article 193 of the new Code of Criminal Procedure, the reconstitution may be ordered with reasons by the prosecution or the court, if it considers it necessary to verify or specify a series of data which are important for the resolution of the case and which have not been clarified by other means of evidence (Stancu 2015, 546).

Reconstitution requires the same careful preparation as for other procedural documents, the same organization in a technical-tactical manner, based on a sensible plan, and the judicial body in charge of carrying out must take into account certain aspects (Stancu 2015, 546; Volonciu 1988, 280), such as determining the exact problems to be checked, determining the participants and ensuring that the reconstitution takes into consideration place, time and manner.

By giving more interest to and developing information about the participants, it should be evidenced that participants must necessarily be the suspect, accused, witnesses and injured persons whose statements are checked.

Where, in addition to the participation of the listed parties, other parties are considered necessary, this can be done to achieve the most fair outcome possible, but it is not mandatory.

Preliminary measures

The completion of preparations is followed by the observance and verification of preliminary measures before the judicial body proceeds to the reconstitution in accordance with the law.

The conditions of preliminary measures are reflected in the choice of time of reconstitution, verification that the conditions have been fulfilled verification that the persons established to participate in the reconstitution are present, verification of the existence of the necessary technical forensic means and means of evidence.

In the framework of the reconstitution, the means of proof used shall always be those used for committing the offense, except where firearms, surveying or other weapons of gender have been used in the act, and are reproduced by means of objects which render the matter as accurate as possible, the color and shape of the object.

Defenders chosen by the parties may ask for further explanations, object to the case, provided that they are well-founded and do not obstruct the conduct of such probative process (Stancu 2015, 548).

Performing the actual reconstitution

No matter the nature of the subject of the verification, the reconstitution must take place in an atmosphere of calm and sobriety, without exaggerations, gestures or spectacular, insignificant, unnecessary actions.

The limitation will not be made to a single reconstitution, but replies will have to be made as many times as necessary to precisely determine the results.

Also, sufficient time will be allocated and consideration will be given to the pace of deployment being similar to that declared to have been at the time of the deed.

The facts that endanger the safety of the state, life, bodily integrity, health, honor and dignity of persons do not reproduce. Also, the actual scenes of the sexual offenses will not be reconstructed, the scenes of harm will not be reproduced in dangerous places and the corpse will not be used to reconstruct the murder (Buzatu 2013, 132).

The most important thing will be stressed and suggestions will be avoided, in order for the participating person to act in accordance with what he has stated.

The fixing of the results of the reconstitution

Following the reconstitution, the information obtained will be fixed in various ways and means such as minutes, photography or audio-video tape.

The minutes are the main means of fixation. It is drafted in compliance with legal provisions and forensic norms and must reflect the whole process and the results achieved.

It has a printed typical layout: the introductory part, the descriptive part, the final part containing both elements common to minutes and its own elements.

The photographs and drawings shall supplement the minutes and shall be taken in order to increase the demonstrative character of the minutes.

The fixation with the application of some technical means, is reduced to the obtaining of the images that is to the material - fixed reflection of the one who carries the forensic information, in the form of visual or audio images based on the direct or indirect perception.

Imaging means are very important because they reproduce those presented in the minutes and contribute to a correct understanding and an accurate perception of the records of the judicial body. Taking into account at the completion of the minute there may be unintentional omissions and details which may escape being observed at the moment, by fixing them using photographic, audio or video means, at a subsequent re-examination of the fixed means and information, the previously unhighlighted details may be observed.

Conclusions

Although it is a much more elaborate forensic process involving many more resources (financial, material), the reconstitution provides much more obvious and eloquent information, clues and data that can change the course of the criminal prosecution or speed up and prove the guilt of the defendant.

In an attempt to find out the truth in question under investigation, the judicial body appeals to all the necessary processes and techniques that can help it, and reconstitution is considered one of the most important.

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Environmental Justice

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ABSTRACT: **Mapping Climate Justice** proposes a 3-dimensional environmental justice approach to share economic benefits and the burden of climate change right, just and fair around the globe. Scientific data is backed by ethical imperatives. Gross Domestic Product (GDP) gains and losses of a warming globe are captured to be distributed unequal around the world. The ethical climatorial imperative demands for an equalization of the gains of climate change around the globe in order to offset losses incurred due to climate change (Kant 1783/1993; Puaschunder 2017b, c; Rawls 1971).

First, climate justice within a country should pay tribute to the fact that low- and high-income households carry the same burden proportional to their disposable income, for instance, enabled through a progressive carbon taxation, consumption tax to curb harmful behavior and/or corporate inheritance tax to reap benefits of past wealth accumulation that may have caused climate change (Puaschunder 2017c).

Secondly, fair climate change change burden sharing between countries ensures those countries benefiting more from a warmer environment also bear a higher responsibility regarding climate change mitigation and adaptation efforts (Puaschunder 2019).

Thirdly, climate justice over time is proposed in an innovative climate change burden sharing bonds strategy, which distributes the benefits and burdens of a warming earth Pareto-optimal among generations (Puaschunder 2016a). All these recommendations are aimed at sharing the burden but also the benefits of climate change within society in an economically efficient, legally equitable and practically feasible way now and also between generations.

KEYWORDS: Agriculture, Climate Change, Climate Change Gains, Climate Change Losses, Climate Justice, Industry, Macroeconomic Modelling, Service, Taxation, United States, World

Future Climate Wealth of Nations is derived from climate flexibility defined as the range of temperature variation of a country. In a changing climate, temperature range flexibility is portrayed as a future asset for production flexibility and international trade of commodities leading to comparative advantages of countries.

A broad spectrum of climate zones has never been defined as asset and comparative edge in free trade. But future climate change will require territories being more flexible in terms of changing economic production possibilities on a warming globe. The more climate variation a nation state possesses, this novel project argues, the more degrees of freedom a country has in terms of GDP production capabilities in a changing climate.

Modeling and empirical validation: These preliminary insights aid in answering what commodity prices, financial flows and trade patterns we can expect given predictions the earth will become hotter. Climate variation based on cyclical changes or climate zones will become subject to scrutiny for associations with climate-based advantages and risks. Economic modeling, cross-sectional world country comparisons, time series and panel regressions will scrutinize temperature data in relation to production in order to derive inferences for future Climate Wealth of Nations. Already now, the degree of climate flexibility is found to be related to human migration inflows. The previously defined climate change winner and loser index is blended with the novel insights on climate flexibility, leading to an unprecedented outlook on future Climate Wealth of Nations in a climate changing world (Puaschunder, forthcoming).

Lastly, future climate change induced market changes are planned to be derived from scarcity of agriculture production. Individual commodities price distributions will become the foundation for commodity price expectation estimates in the environmental domain backtested on actual data. In honor of Natasha Chichilnisky-Heal, special attention will be paid to the role international institutions play to alleviate anti-corruption in commodity pricing and trade wars.

Political economy implementation: Market prospects and public policy recommendations are pursued in order to aid the greater goal to implement environmental justice now and for future generations. The wealth that is in the climate of a territory should be transformed into wealth in the hands of the citizenry (Chichilnisky-Heal, n.d., Bargaining to lose).

The early Chichilnisky-Heal (n.d., Memorandum) worked on (1) the challenges international organizations face in mediating between explicit and unstated goals and in building credibility with developing countries as well as (2) the importance of balance between an ideal-world policy prescription and a contextualized policy implementation, unique to each nation (Chichilnisky-Heal, n.d., Memorandum). As Chichilnisky-Heal (n.d., Memorandum) credibly argued, politicizing by states at the expense of environmental protection is a suboptimal strategy. Finding an effective way to prevent or manage such disputes is vital in order to mitigate the high economic, political and human costs associated.

Inspired by Chichilnisky-Heal's work, the proposed research will address the resource curse. The framework will address the political economy problems that emerge as a result of the distinctive path experienced by many GDP-poor but resource-rich nations in the past 25 years, focusing specifically on the quality of democracy (Chichilnisky-Heal, n.d., Bargaining to lose). Addressing the cases of the changing nature of democracy in poverty-stricken resource-rich nations around the world, promises to add the most valuable real-world relevant angle to the Mapping Climate Justice framework.

Chichilnisky-Heal works out the relation between permeability and the resource curse. Permeability is the process by which external non-state actors such as the International Monetary Fund and multinational corporations (MNCs), by virtue of their relationships with cash-strapped resource-rich governments, enter into crucial roles in the governance of these nations (Chichilnisky-Heal, n.d., Bargaining to lose). Permeability measures the degree to which a democratic government and its processes have been "permeated" by actors other than its domestic constituent base. As, Chichilnisky-Heal (n.d., Bargaining to lose) analyzes, permeability functions as a concept opposed to that of sovereignty – while in today's world hardly any country exercises absolute sovereignty over their own territory and economy, states that exhibit permeation, or experience the phenomenon of permeability, necessarily exhibit lower levels of domestic sovereignty. Chichilnisky-Heal (n.d., Bargaining to lose) vividly outlines this in the cases of post-transition Zambia and Mongolia. Higher levels of permeability cause lower levels of political (and economic) development by creating opportunities for and incentivizing corruption.

Chichilnisky-Heal (n.d., Bargaining to lose) defines political underdevelopment as problem to occur between permeability and a reduction in democratic accountability of these governments to their domestic constituencies. Theorists overlook the impact of permeation on democratic accountability and societal development (Chichilnisky-Heal n.d., Bargaining to lose). Chichilnisky-Heal outlines that external actors (multilaterals and MNCs) bargain extensively with host governments over the regulation of industries. This phenomenon Chichilnisky-Heal (n.d., Bargaining to lose) argues skews the democratic process not simply by making the government economically beholden to the external actors, but also by giving the external actors a permanent seat at the bargaining table of domestic politics. Keck and Sikkink's work on transnational advocacy networks and Stiglitz' work on the social networks within the World Bank and IMF demonstrate, network connections can easily pervert intentions as outlined in principal-agent problems and social network predicaments driven by distance, misinformation and conflicting incentives (Chichilnisky-Heal n.d., Bargaining to lose). As was vividly outlined by Chichilnisky-Heal in the real-world dependence of oil

prices on politics in the Russia-Ukraine dispute, natural resources prices are susceptible to politically-driven supply cutoffs and dependent on infrastructure management regimes.

Chichilnisky-Heal (n.d., Memorandum) proposed a model of an intermediate level of global governance in a regional institution designed to combat permeability and other challenges with regional impacts. Chichilnisky-Heal recommends to scrutinize the rise of regional governance institutions that can overcome the above challenges. Chichilnisky-Heal's idea is to create a new international institution that serves this very objective: not only to standardize pricing negotiations and to resolve disputes, but to bind its member states to their commitments. (Chilnisky-Heal n.d., Memorandum) An as such institution is legitimized by the fact that existing dispute resolution mechanisms and institutional arrangements have proven to be inadequate and to possess major drawbacks. Chichilnisky-Heal (n.d., Memorandum) brought forward vivid examples in the energy sector that contain weak incentives for compliance and failure to ratification by certain key players.

Clear mission statements what is needed in an institution with mission to address the international particularities of climate change winners and losers around the globe are recommended to be granted with a focus on geographic scope and regional incentives. The geographic scope is advised by Chichilnisky-Heal to encompass all key producers, consumers, and transit states. In the words of Chichilnisky-Heal, the point is to bring together countries already engaged with each other closer together on an international institutional level. An as such agency could work with stable transit fees and sovereign controls of domestic infrastructure, including control of storage and shortage risk management (Chichilnisky-Heal n.d., Memorandum)

As for institutional structures, the proposed international regulatory and oversight body should feature signatory member states that issue differentiated contributions but vote in a democratic one-country-one-vote principle. This is important as large countries and major commodity suppliers should not be dominating or abusing their market dominance at the expense of smaller, more dependent countries. To avoid harmful cartels and corruption, member states are advised to negotiate the terms of new and existing projects entirely within the framework of the Agency. One of the main functions of the Agency – proposed by Chichilnisky-Heal – is to set guidelines for the pricing negotiations. Thereby each member state is required to contribute funds to an escrow account that is accessible as commodity price rescue fund for vulnerable communities in case of crises and commodity bubbles. This is designed to create a cushion of stability for those countries that will be losing climate flexibility. The prevalence of opaque pricing mechanisms should be made transparent in market incentives for transparency but also concurrent research efforts. In particular, Chichilnisky-Heal recommends the merits of net-back pricing compared to cost-plus or net-forward pricing as it offers greater transparency and predictability in contract negotiations and will be applicable even as alternate sources of income. For member states in a climate transition period, Chichilnisky-Heal's work points at an annual adjustments to be smoothed over time to prevent a drastic price changes.

The Agency should also feature a dispute management over cross-border trade wars that put upward pressure on commodity prices. Disputes can range from technical, legal, commercial and political frictions. Technical disputes concern the quantity and quality of commodities being supplied to and withdrawn from cross-border trade. In order to combat corruption, monitoring stations are advised to be put in place at entry and exit points along national boards, to be staffed by pre-selected technicians from an Independent Commission. Legal disputes over contract violations. To resolve legal disputes, Chichilnisky-Heal proposes the appointment of a neutral expert to arbitrate and, if necessary, facilitate new contract negotiations. Commercial disputes will be mitigated by the existence of escrow accounts, filled regularly by each member state and then drawn down in the case of non-payment. Financialization risk management strategies should be pursued to preventing supply cut-offs caused by payment defaults. Commercial disputes will be mitigated by the creation of escrow

accounts upon the signing of supply contracts, into which perhaps 18 to 36 months worth of payments would be placed. In the event of a dispute over payment or insolvency of the purchasing state, funds would be drawn down from these escrow accounts to ensure uninterrupted supply of energy to consumers while the parties to the supply contract come to an agreement (Chichilnisky-Heal n.d., How to solve the pipeline problem). Escrow accounts offer a depoliticized solution to payments as they are inaccessible except during a dispute. In the case of insolvency, there should be a "bridge" period installed during which payments will be made out of the account and the non-paying country will be expected to begin refilling the account. Another mechanism of commercial disputes is to clearly delineate national sovereignty – so that there can be no theft of commodities. In the face of political disputes, such as security concerns, all parties should engage in consultations. All member states would benefit from the long-term commitment and the chance to work within a dispute resolution framework that puts commercial and institutional stability ahead of politics.

As with all international organizations, obstacles include weak incentives for compliance and non-ratification or adherence to universal international legally binding instruments (Chichilnisky-Heal n.d., How to solve the pipeline problem). In order to overcome generality and ineffectiveness, a new institution should address the specific and complex commodity and energy security issues without losing the capacity to please all involved parties (Chichilnisky-Heal n.d., How to solve the pipeline problem). The establishment of an as such institution should feature all the actors involved in transnational commodities transfers including member states representatives, observer states and market actors such as suppliers, transit states, and consumers of energy who must prioritize energy security (Chichilnisky-Heal n.d., How to solve the pipeline problem).

The Agency should embrace all stakeholders in order to overcome the risk of international bargains being vetoed at the domestic level by bringing domestic actors directly to the international bargaining table. This suggestion follows a new form of politics, which truly blends international and domestic endeavors (Chichilnisky-Heal 2013). This addresses a trend in international relations theory of lowering the barrier between international and domestic politics, instead viewing the two as in many cases inextricable (Chichilnisky-Heal 2013).

An additional idea Chichilnisky-Heal (2013) brings forward is that a more individualized human touch should be featured in climate change negotiations. This appears problematic as states appear to be classified and operationalized as a unitary actor, which she finds as shakiness in International Relations Theory. Chichilnisky-Heal (2013) argues for the care of individual lives over the continuation of states.

Chichilnisky-Heal (n.d. "IR 1, Susan Hyde, Week 4 Response Paper") also writes about social norms and how they differ radically across the globe, and even within state societies. Norms regarding international relations are shaped by history, by intellectual developments, and by changing self-interest, Chichilnisky-Heal (n.d. "IR 1, Susan Hyde, Week 4 Response Paper") points out. History provides data for extrapolation and we may draw from it. Self-interests, in a rational choice paradigm, adjust according to exogenous and endogenous variables, hence also a changing climate.

Lastly, Chichilnisky-Heal spearheads theoretical advancements by pointing out that rational choice theory being grounded on the assumption that the unitary state representative can compute likelihoods and outcomes in complex strategic settings. This idea has been challenged in both theoretical and empirical literature as early as in Scharpf (1991), Chichilnisky-Heal (n.d. "IR 1, Susan Hyde, Week 4 Response Paper") notes. Chichilnisky-Heal prospects rational choice theory to adapt itself to empirical advancements – such as bounded rationality and prospect theory. Chichilnisky-Heal proposes to use strategic choice to be the most constructive framework for studying political action but the limitations of rational choice to be prevalent in extremes of human behavior, which Chichilnisky-Heal points out to be consistent with Kaufmann and Pape's norm-driven explanation. At the

extremes of the human experience, Chichilnisky-Heal argues rational choice and norm-driven behavior overlap to drive decision-making. As a critique of rational choice, Chichilnisky-Heal vividly outlines that catastrophic risk cannot be simulated in laboratory settings to be tested (n.d. "IR 1, Susan Hyde, Week 4 Response Paper").

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Criminalistic Research of the Forged Documents

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ABSTRACT: Following the research and the studies carried out over time, the writing criminalistic expertise was divided in several categories according to the specificity of each case. The final purpose was that of identifying the perpetrator of a fake based on the acknowledgements and conclusions established by the criminalist expert. It is considered that, during the drafting, the documents have a real, objective and exact objective because the persons drafting them do not foresee late on that they are to be used as evidence in court. These types of expertise are used both in the criminal as well as in the civil trial, having as objective the confirmation of the authenticity of a document.

KEYWORDS: false, documents, criminalistics, expertise, research

Introduction

Regarding the beginning of the writing criminal expertise in Germany, it is known the fact that, from the beginning of the feudalism, the law commentators focused on the methods used by the perpetrators for falsifying the documents. Among the barbaric rules of the Germanic law, also some are known referring to the investigation of the fakes in justice, however few because the importance to prove the documents was low. Later, given the importance which it was granted, the criminal expertise was legally regulated by laws since May 14th 1879 and June 29th 1887, taking which especially of the use of this evidence mean in terms of frauds and fakes (Mihuleac 1971, 100).

In England, the legal provisions regarding the expertise appear barely in the 19th century, loaned from the French. It is interesting to signal the fact that in England, at the beginning, carrying out an expertise had a fully private feature. The jury listened to experts as witnesses, these experts being able to visit the accused in detention, a thing which made possible given the private feature of the expertise. From the time of the queen Victoria's reign, the coroner is the one leasing the investigations, assisted by judges and he also nominates the experts (Mihuleac 1971, 101).

The documents, as well as the statements of the witnesses, constitute one of the oldest means of evidence used since Antiquity. At the same time with the evolution of the society, the written evidence gradually replaced the witness evidence (Văduva 2001, 49).

Criminalistic investigation of the material fake in documents

The writing, as means of fixating and communicating the ideas, constitutes a habit and a certain intellectual habit in which various movement acts are involved. The physiological mechanism of the habits, in general, including that of the writing habit, is provided by the temporary nervous connection context and of the conditioned reflexes (Ionescu 1973, 36).

The anatomic, physiological and psychic features of the man, the conditioned reflexes complex, the dynamic stereotype determines the individuality and the relative stability of writing. The tendency to imitate a writing or signature of another person or to disguise one's own handwriting is opposed the system of the writing habits, namely the dynamic stereotype. The stability of the formed stereotype manifested both in the handwriting carried out at various time intervals, as well as those carried out in various conditions, constitute the essence of the physiological phenomenon which insures the possibility of identifying the person according to the writing (Sandu 1977, 25).

Some deviations from the details of the model, such as the direction of the movements, the placement of the starting points and the intersection points, the manner in which the features are

finalised, the pressure distribution, the dimension and orientation of the stamp are not sufficiently edifying to conclude regarding the counter fake's author, and this not because of their reduced number, but rather due to the fact that these often have a casual feature, not being typical of the usual handwriting of the forger (Sandu, 1977, 59).

The documents can originate from the parties involved in a conflict or from third parties. These can have private or official signature, originating from various institutions.

The traditional sense provided to the fake documents is, in general, common for all its forms of manifestation. No element of the crime differs too much from another, from one form to another of the fake; some more significant nuances appear only regarding the subject of the crime and its objective side. Thus, it must be mentioned that whatever the enlisting of the truth's alteration manners, they are reduced to two main forms, namely:

a. The intellectual fraud consists in certifying some deeds or circumstances which do not correspond with the truth or in their conscience omission to insert some data or circumstances in a document, while it was drafted.
b. The material fake – in official or non-official documents – consists in either the alteration of certain elements of a pre-existing document, or in the full drafting of a fictions document (Sandu 1977, 12-13).

According to the manner of operating, the fake can be classified in:

a) The mechanical removal, carried out by scraping away the text with a blade, needle or another sharp object or by erasing it with rubber, bread crumb etc.
b) The chemical removal, via the corrosion or washing with certain chemical substances a text, fully or only partially, having as result in its discoloration and, sometimes, even via the final removal of the text.
c) Covering a text or some graphic signs by marking or staining it with various writing substances or substances of another nature (Stancu, 2015, 327).

The criminalistic examination of the wiped texts is carried out in two stages:

I. Establishing the alteration spot

Firstly, it is proceeded to the optical examination at a stereomicroscope, under the incidental light, being emphasised the paper's pilling, its loss of gloss, colour differences, alteration of some features close to the whipped text or of the paper's ruling etc.

The identification of the altered portion is possible by vaporising with iodine the document, the grated place being coloured with a yellowish tent due to the retention of a large quantity of iodine. Moreover, it can be made use of the paper powdering with graphite, retained better on the pilled surface.

These two methods serve including for the revelation of the traces of the hands formed on the document's surface. However, the graphite presents the disadvantage which deteriorates somehow the paper's surface.

A method used especially in the cases in which, after the removal of the text, the gluing layer from the surface's surface was relatively redone, consists in pouring a drop of gas next to the grated place. The gas will spread on the paper's surface having the tendency to bypass the affected area; later, however, it spills over it.

Both in the case of vaporising with iodine, as well as in the hypothesis of using the petrol drop method it is necessary to immediately appeal to the photographic fixture of the result obtained.

The portion of which the text was removed, especially in the chemical washing cases, can be traced with the help of the ultraviolet radiations, the fluorescence of the paper being modified in the altered portions. Moreover, it can be also applied the contrast photography or the colour separation procedure.

II. Texts restoration

a. Restoring the removed text

Restoring the removed text is, firstly, according to the writing material (ink, pencil etc.), and then that of the support on which it was written, including the age of the writing and the conditions in which it was preserved.

The revelation or restoring of the text removed is possible via physical and chemical methods which, however, can lead to the change the document's appearance, such as, for example, using the sulphuric-cyanohydrin vapours in emphasising the text written with iron-based inks.

Restoring the text is possible due to the existence within the mass of the paper of some leftovers or particles from the composition of the writing material, such as it is the case of the inks, but also due to the pressure trails created by the instrument with which it was written with, visible traces on its back or possibly emphasised via the shadow photography and, more recently, by using the laser.

A. The physical methods for restoring the texts written with ink or with chemical pencils are based on the invisible radiations, both the ultraviolet, as well as the infrared ones, or the Roentgen radiations.

B. The chemical methods for restoring the removed texts area based on the reaction between various chemical reagents and the components of the ink or of the pencil, which reached the paper's mass, which, according to their nature, will start a reaction with the revelation solutions.

b. Restoring the covered texts

In the forgery carried out by covering the text or some of the graphic signs (letters, numbers), either by marking them with ink, pencil or ink stains or with other substances, for the revelation of the text, it is appeal to specific methods.

This type of revelation is according to the age between the writing covered with the substance used for covering, as well as its quality or colour.

The revelation of the text can be done, firstly, by examining the document by transparency, in a strong light. Moreover, it is possible to appeal to a colour separating photography.

Frequently it is used with the undivided radiations, especially the infrared radiations, given their property to travel the paper and be retained by the carbon, metallic salts, acid-based substances etc.

Of the invisible radiations, it is appealed also the Röntgen radiations, with the help of which electronographic photos, following the irradiation of the atoms from the covered text's ink. Moreover, it is applied also the diffuse-copying method, as well as the revelation procedures of the pressure traces, created by the pencils or by the ball ink pens mentioned above of high efficiency remains, however, the device of the "Video Spectral Comparator"-type destined especially to the investigation of these type of fakes.

The forgery by adding text, as well as the forgery by removing the text, is usually typical for the partial forgeries. This forgery category can be executed via the simple change of a letter or number (8 out of 3, 9 or 6 out of 0 etc.), by adding numbers, reaching full lines.

Of the forgery variations by adding text, it is frequent also that of transferring letters, words or numbers, later full rows, after an authentic document.

The forgery by adding text can be carried out both by the individual who initially drafted the document or by another individual, the forger appealing to a scriptural instrument similar to the one initially used or another one, as well as some similar or different inks. Naturally, the time interval between the drafting moment and the forging one can be longer or shorter. This type of forgery is often proceeded by the removal of the text.

According to the forgery manner, the investigation goes over several stages:

- Researching the graphic features. The first stage of the research is represented by the study of the text's graphic features, beginning with the logical continuity of the writing, with the distance between the lines and between the words and finishing with the particular graphic features.
- Investigation of the writing material. There are situations in which the above-mentioned forgery clues become insufficient for establishing the forgery. After that, it is proceeded, in a second stage, to the physical and chemical examination of the material on which it was written (ink, pencil etc.) (Stancu 2015, 327).

The fake using the imitation or disguise of the handwriting. The imitation consists, in essence, in the reproduction of another person's handwriting, by drawing after a model placed in front or learnt by heart (Buzatu 2013, 86).

A. Fake via handwriting imitation

Compared to the imitation after a calligraphic model, which takes place in an individual's writing formation process, the imitation in a fraudulent manner comes into conflict with the writing habits of the document's forger, reached at a level of another's individual writing features, such as we mentioned, the writing habits are relatively stable and do not change easily, fully, according to the will of the document's forger.

These will manifest, more or less, also in the imitated writing or signature, constituting identification elements of the counter fake's perpetrator.

In the falsification operation intervenes a contradiction between the graphic stereotype of the forger and that which is desired to be obtained. By trying to have a certain consolidation stage, these will constitute an obstacle in the loyal rendering, to imitate the model as exactly as possible, he comes out of the stereotype or graphic and then the fake is betrayed by the defects of the features carried out. Giving course to his/her usual writing, the features obtained will be cursive, but these will resemble less the imitated model.

Imitating the signature of an individual can be done in two ways:

a) Via the slow visual tracing of the path belonging to the authentic signature, operation similar to drawing after a model;

b) By executing the signature in a more or less normal rhythm, after which, before, the forger studied the original model of the signature or has even carried out imitation exercises.

The first manner is named in the speciality literature servile imitation, and the second free imitation (Sandu 1977, 28).

B. The disguise

Can be achieved by distorting the graphic features, the writing with printed letters or by writing with the left hand.

The disguise constitutes a conscience, deliberate change of the scholar's handwriting, with the purpose of hiding his/her identity. Usually, it is not produced a total transformation of the writing habits. In the disguised handwritings, it is maintained elements from the writing based on which the perpetrator can be identified because the disguise in itself includes a reflective return to the original handwriting (Buzatu 2013, 86).

Disguising the writing is frequently met in the case of anonymous letters with abusive, calumnious, threatening or blackmailing etc. feature, situation in which the author is trying to hide his/her identity.

The main procedures for carrying out the writing disguising, which contain also clues of the forgery are:

- deformation or change of some general graphic or own particular features, such as the size, form and inclination of the strokes, as well as the writing in a manner which might create the impression of a less evolved writing;

- writing with the left hand, which in the persons lacking exercise la it is materialised in a heavy, uncoordinated, rugged graphism, which is reducing while the person gets into the habit of writing this way;
- writing with capital letters or printed letters, which, however, can contain elements of sufficient specificity, especially in the case of the persons used to writing in this manner (Stancu 2015, 333).

Conclusions

The approached theme presents a theoretical and practical speciality synthetic in the handwriting expertise field. It is a current theme because at the same time with the economic, social and technological development of a country, forging documents became ever more difficult to traced, that is why it is imposed the ongoing permanent training of the technical means and methods for discovering the forgeries in the documents, as well as the necessity of the existence and application of a competitive legal framework, with the help of which these deeds can be monitored and sanctioned.

On the other hand, via the criminalistic investigation of the documents or of the documents there exist the possibility to dispose of and use reconstruction methods and techniques of the deteriorated documents by reconditioning and deciphering the archive documents, the documents which have a historical value, of some literary or artistic work, thus emphasising the utility of these techniques and methods from the criminalistic science and from other investigation fields.

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Property Insurance

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ABSTRACT: The paper presents the topic regarding the insurance of assets, defining the insurance agreement and the notion of "asset" in the legal sense, the principles underlying the insurance, the classification of the assets, the distribution of the insurances according to their object, as well as the object of the insurance of assets mentioned in the insurance agreement. Also, the specific elements of this type of agreement can be found in the paper: the period of insurance of assets, the beginning and termination of liability, the insured interest- a condition imposed on the insurance agreement arising from the principle of damage compensation, the insured risk, that future and possible event, the conditions that an event must fulfil and also the insured case.

KEYWORDS: insurance, movable assets, immovable assets, insured risk, insured case

Introduction

Insurances are those policies that come to the aid of natural or legal persons, in order to protect them against natural disasters, diseases or accidents. More and more people want to conclude such insurance contracts, in case of a damage caused to the property which is part of their assets. The property insurance is not required by law, being an optional insurance.

The agreement of will between the insured and the insurer, made under the form of a contract, represents the insurance in the event of occurrence of a risk, based on the principle of mutuality, within the meaning that the insured must pay an amount of money to cover the damages. The insurer takes over the risk and undertakes to pay an indemnity to the insured upon the occurrence of the insured event.

The insurance contract implies certain conditions of validity, such as: the existence of the insurance object, a freely expressed consent, as well as a term agreed between the contracting parties.

Insurance companies determine what types of property they can insure in case of theft or other events. The property can be provided by the owner or by another person using it. The insured amount is determined according to the real value of the property.

The properties are considered to be those assets which meet the needs of man and which have economic value. Properties existing in the present, as well as those from the future, can be insured, and represent thus the object of insurance.

Insurance companies specify that degraded properties are not accepted to be insured. The insurer can check whether the insured property has been maintained.

The concept of insurance and the notion of "property"

There is a lot of uncertain future phenomena in terms of occurrence that may affect certain categories of natural or legal persons. After the payment of certain amounts of money (insurance premiums) to certain specialized companies (insurance companies), these persons can establish an insurance fund.

Persons interested can use this fund, only insofar as they have contributed to its establishment, in order to protect their assets against any damage caused by the dangers that have united them.

Between the persons interested in insurance (insured) and the insurance company (insurer), monetary distribution relationships are achieved:

- firstly, by means of the payment of the insurance premiums by the insured to the insurer.

- secondly, by the granting of damage compensation by the insurer, in the form of an indemnity, in case the property or interests of the insured person are affected (Iliescu 1999, 8-9).

The insurance contract is the legal deed by which a person, called the insured undertakes to pay an amount of money (insurance premium) to a specialized legal person, called the insurer, in exchange for which the latter takes over the risk of a certain event determined, by means of the payment that will be made to the insured or to the beneficiary of the insurance, as damage compensation, within the agreed limits and deadlines (Iliescu, 1999, 26).

"The properties" within the legal meaning of the word are only those things that have economic utility, that is of meeting a need and which can be appropriated in the form of patrimonial rights.

It follows that in civil law only those assets which cumulatively fulfil the following two conditions can be considered properties:

a) The asset has an economic value, useful to meet a material or spiritual need of the human being.
b) To be able to be appropriated in the form of patrimonial rights.

Our civil code uses the term of property in two senses or acceptances. Thus, in the narrow sense *(stricto sensu),* the property is understood as an economic value that presents utility in meeting the material and spiritual needs of man, being susceptible of appropriation in the form of patrimonial rights. In the broad sense *(lato sensu),* properties mean both the assets and the patrimonial rights that have these assets as object (Lupulescu 1998, 65-66).

Insurance principles

The organization of the insurance activity is based on a sum of principles, which represents the framework of this activity, among which we mention:

- *The principle of unity*, which considers the development of a unitary policy in this field, both at the system level and at the level of each insurance company; the unity of insurances is also given by the unity of the rules and rates of insurance, by the unity of the financial base

- *The universality of insurance*, as a principle, implies that a very wide range of properties (almost universal) can be insured against many and the most varied risks.

Within the limits allowed by law, insurance companies shall determine the types of assets they can insure, as well as the risks that these are willing to cover according to the company policy.

- In the insurance of properties or of civil liability, we can speak of the *principle of indemnity* of the compensation, because the level of the indemnity cannot exceed the value of the damages or the real value of the insured properties, following the patrimonial support of the insured, and not its enrichment.

- The insurance is concluded only for properties and risks clearly determined by the insurance contract. *The individualization* of the insured or of the beneficiary of the insurance is made by means of the policy issued by the insurer, and regarding the risks, by the insurance conditions that are an integral part of the contract.

- *The principle of mutuality of insurances* is based on the existence of a risk community, within the meaning that several natural or legal persons threatened by the same risks will pay certain amounts of money in order to form a fund (insurance fund).

- *The principle of economic efficiency* follows that the insurance offer, as well as the risks, the amounts included in the contract correspond to some real requirements of the economic agents and not only (Iliescu 1999, 11-12).

Classification of properties

The distribution of the insurances, according to their object, determines three categories of insurances: of persons, of civil liability and the property insurance.

The property insurance can be found in different forms in other categories of insurance obtained according to different classification criteria.

In order to determine generically what could be the proprieties that can be covered by insurance, we found it interesting to present them based on the structure of the classification of property from civil law (Iliescu, 1999, 20-21).

According to the physical characteristics, the properties can be corporeal, that is, those that have a body, a tangible existence, such as movable or immovable properties by their nature:

- ***Intangible properties*** are those that have an ideal, abstract existence, such as claim rights and real rights, except ownership right (Prediger, 2011,72).

Regarding ***movable properties***, we have to make the following distinction:

- Movable proprieties by their nature are those that can be transported from one place to another.
- Movable properties by law (bonds and shares that have as object amounts due or real estate effects).
- movable properties by anticipation (those properties which, by their nature are immovable, but which the parties of a legal deed consider as movable in consideration of what will become, for example: fruit and harvests not yet harvested, but alienated by legal deed, in advance).

With regard to **immovable properties** the following distinctions must be made:

- Immovable properties by their nature.
- Properties according to the object to which it is applied.
- Properties by destination (Constantinescu, 2000, 83).

Those properties that can be acquired or transferred by means of a civil legal deed are part of the category of the properties from the civil circuit.

Individually determined properties are those properties that are individualized by means of own, special (unique) characteristics. Generically determined properties are those properties that are individualized by the special features or the category they belong to (Constantinescu 2000, 85).

Fungible properties are those properties that can be replaced by one another in the performance of an obligation. In principle, all properties of kind and consumptive ones are fungible.

Non-fungible properties are properties that cannot be replaced in the performance of an obligation. Single properties are properties of this kind (Prediger 2011, 80).

Properties that can be divided into several parts, without thereby changing their economic destination, are called ***divisible properties.***

The properties which, by dividing them into several parts, lose their former economic purpose are ***indivisible properties.***

The properties that serve the use of other properties, which are linked by an economic purpose, are called ***accessory properties,*** and the ones that they serve are called ***main properties*** (Lupulescu, 1998, 73).

Regarding the classification of properties into properties that belong to the public or private domain of the state, we specify that the ***properties - public property*** belonging to the private domain of the state can be ensured the same as the ***properties - private property***, without any restriction (Constantinescu, 2000, 86).

The specific elements of this type of contract

The insured interest is a condition generally imposed on insurance contracts and arises from the principle of damage compensation. A person may require the performance of the services provided in the insurance contract only if he/she has an insurable interest.

The insured interest represents the effective damage and assessable in terms of money that the person interested in insuring the property can have in case of occurrence of the insured event (Constantinescu 2000, 90-91).

The lack of the insurance interest results in the insurer's refusal to conclude the insurance, and the loss of interest during the insurance contract determines its termination.

Specifically, when the total or partial loss of the property fails to cause any damage to the assets of a person, he/she has no interest in insurance and thus cannot conclude, on his/her own behalf, an insurance regarding that property (Nemeș 2011, 255).

The ***insured risk*** is a future event, possible, but uncertain, to which properties or the assets of a natural or legal person are exposed throughout the insurance, an event that does not occur from the will of the insured or of the insurance beneficiary.

The conditions that an event must meet in order to be a risk included in the insurance are as follows:

- The event should be future and possible
- The event should be uncertain, both in terms of moment and intensity
- The occurrence of the event should be subject to hazard
- The occurrence of the event can be subject to statistical evidence and the probability of its occurrence can be calculated.

The properties can be insured for risks such as: complete or partial destruction, theft, fire, floods, earthquakes, landslides, strong winds and any other events that could have harmful consequences on the property and implicitly on its owner (Nemes, 2011, 255).

The insured case is the insured risk that occurred. Unlike risk, which is a future and uncertain event, the insured case is the event that occurred (Constantinescu, 2000, 90-91).

Conditions of validity of the insurance contract

In order to be valid, the insurance contract must comply with all the legal provisions regarding: the ability to conclude contracts, the consent, the object of the contract and the cause.

The ability to conclude a contract

The essential, general and substantive condition that consists in the ability of the subject of civil or commercial law to become a subject with rights and obligations for the conclusion of legal deeds is called, as a rule, the ability to conclude a contract.

The natural persons, the insured, can be subjects of a legal insurance report, insofar as they fulfil the conditions required by the law to contract and have the necessary discernment for this.

An insurance contract is considered valid, as far as there is an ability to conclude a contract, only if the insured has full legal competence. For those who have a limited legal competence, their legal representatives, parents or guardians can conclude the insurance (Tudor and Almajanu 2003, 116-117).

Consent must meet the following conditions:

- To be given by a person with discernment
- To be given (expressed) with the intention to bind
- To be outspoken
- The will manifested has to be free; it should not be manifested under external pressure
- The expression of the will has to be conscious (Nițoiu, 2003, 32).

The object of property insurance is the one specified in the insurance contract, which may consist of properties owned by natural or legal persons, or properties held under another title (based on a lease, concession agreement, etc.); existing goods but also future goods can be insured. Regarding the condition of the properties from the moment of the conclusion of the contract, generally, the insurance companies do not accept to insure properties which, due to degradation, can no longer be used according to their purpose. The insured undertakes to maintain the insured property in good conditions and in accordance with the legal provisions, in

order to prevent the occurrence of the insured risk, as the insurer has the right to check how the insured property is maintained.

In the event of non-compliance with these obligations, the insurer may terminate the insurance contract, while the reinstatement of the insurance will be made after the insured proceeds to remedy the deficiencies.

Properties are insured according to the amounts declared by the insured, the insurer counting on his/her good faith, as the insured amount cannot exceed the value of the property from the date of the insurance.

The insurance produces effects only within the limits of the value of the insured property from the moment the risk occurs. If, before the insurer's liability takes effect, the insured event occurred and the insurance remained without object, or if the occurrence of the insured event became impossible, the insurance contract is terminated as of right, and the insurance premiums paid for the period subsequent to termination will be returned to the insured.

Following the occurrence of the risk, the representatives of the insurer will check the authenticity of the facts declared by the insured regarding the causes and the size of the damages, while the facts found on the site will be recorded in a minutes signed by both parties. No compensation shall be granted if the damage was intentionally caused by the insured, the contractor or the beneficiary, or by a member of the insured legal person's management.

Regarding the occurrence of damages caused to the properties insured due to natural disasters, some insurance companies grant damages only insofar as the policy includes special clauses regarding these additional risks, the insurance premium being increased accordingly.

The insurer undertakes to pay the damages only insofar as the material damages suffered are a direct consequence of the insured case. The insured undertakes to declare the existence of other insurance for the same property at different insurers, both upon the conclusion of the insurance contract and during its performance. The insured has the possibility to opt for the increase of the insurance amount, the insurance premium being increased accordingly in this case. The insurer can opt for the termination of the contract after the compensation is granted, and shall return to the insured the premiums paid for the period subsequent to the termination. The property insurance contract can be concluded by any interested person, natural or legal, provided it is not declared incapable by means of the law (Constantinescu 2000, 87-90).

The *cause* in the insurance contract is that element which consists in the object pursued upon the conclusion of an insurance contract. Together with consent, the cause forms the legal will. The elements of the cause of the contract are the immediate purpose and the mediated purpose.

The immediate purpose lies in the fact that one party is bound, knowing that the other party also binds itself. The mediated purpose consists in the determined reason of the conclusion of such a contract, which refers to the characteristics of certain services or the qualities of certain persons (Tudor and Almăjanu, 2003, 121).

Termination of the property insurance contract

The property insurance contract is subject to the causes of termination of insurance in general. The property insurance contract ceases due to the expiry of the term for which it was concluded, by unilateral termination, by termination for failure to perform or improper performance of the contractual obligations. But the property insurance contract also ceases for certain specific causes, such as the loss of interest in insurance and occurrence of the insured risk.

Besides the general causes of termination of insurance specific for the termination of the property insurance contract is the loss of interest in insurance. A person who suffers a damage if the insured event happens has an interest in insuring a property.

If the owner sells the insured property, he/she loses interest in the insurance, because the total or partial loss of the property does not result in any consequences regarding the assets of the seller. Therefore, when the natural or legal person loses any relation to the property the total or

partial loss of which could not cause it any damage, the insurance contract of the respective property is also terminated.

The effects of the insurance contract as a result of the occurrence of the insured case will differ with respect to the extent of the damage. If the insured risk had as a consequence the total loss of the property, the contract ceases due to the loss of interest in insurance. When the damage is not total, namely the occurrence of the insured risk caused only the partial loss of the property, the contract survives until the occurrence of the causes of termination, but the insurer will indemnify in relation to the value of the damage occurred.

In case of partial damages, the insurance contract does not cease, because, after the reinstatement of the insured property in a state of use, the interest of the insured expressed by the continuation of the exploitation of the property is reactivated. Therefore, the occurrence of the insured case is the cause of termination of the insurance contract in the circumstances in which the insured property perishes (Nemeş, 2011, 261-263).

Conclusions

The need for a property insurance results from the need of humans for protection against uncertain, future events. By opting for such insurance, any natural or legal person can choose what properties can be insured, such as those found in storage, repair, processing etc. The insured will more easily overcome the problems that arise both in terms of the time for the remedy of the damages, as well as of the financial part, regardless of the risks to which they will be exposed.

Insurance represents protection against natural disasters or losses, thefts, robberies. The insured property must exist so that the insured has a patrimonial interest if an event that causes a damage occurs. The benefits of such insurance are that the vast majority of them are flexible and can be shaped according to the needs of each one. More and more companies encourage natural or legal persons to conclude such contracts, precisely to help them discover the benefits and in what category each person's properties may be included. Therefore, concluding an insurance has become a priority.

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Romanian-Turkey Politico-Diplomatic Relations (1971-1974)

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ABSTRACT: The stage of the relations between Romania and Turkey, at the political-diplomatic level, has seen an ascending development as a result of the high level visits, thus laying the foundations of the formation of friendship groups within the two parliaments, contact sand mutual visits at the level of the ministers, of municipalities. There was, however, a moment of stagnation, which was not a particular feature but a general feature that manifested itself both in Turkey's external relations and in domestic political life, with the formation of the Naim Talu government, a transition al government. It could engage in large-scale external relation sanctions. The Turkish press as well as the diplomatic environment expressed interest in learning about the concrete problems, addressing Romanian diplomats in Ankara, the Czechoslovak ambassador, the adviser of the U.S. Embassy, the ambassadors of Bulgaria and Greece and one of the advisers of the R.F. German embassy.

KEYWORDS: politician, diplomat, official visit, parliamentary group

Introduction

At the invitation of the Turkish Government, the Romanian Minister of Foreign Affairs, Corneliu Mănescu, paid an official visit to Turkey, on November 3-7, 1971 (AMAE, Turkey fund 1971, issue 220/1971, TURKEY 5, Vol. 2, telegram no. 12.484 / 04.11.1971, addressed to the Ministry of Foreign Affairs, f. 1). In the talks with the Prime Minister, Nihat Erim and the Foreign Minister, Osmat Olcay, the following issues were mainly addressed:

Regarding the bilateral relations, it was reaffirmed the wish of the Romanian party to expand and diversify on multiple levels the Romanian-Turkish relations, highlighting the possibilities existing in the economic, cultural, technical-scientific fields, etc.

Turkish interlocutors expressed interest in amplifying bilateral relations. Prime Minister Nihat Erim stressed the need to continue contacts with the leaders of the two governments.

Regarding the concrete forms of expanding trade and technical-economic cooperation, it was agreed that at the second session of the Romanian-Turkish Joint Economic Commission, the modalities of exploiting the existing possibilities could be addressed.

It was also established that the negotiations for the conclusion of the commercial protocol between April 1, 1972- March 31, 1973, would take place in Bucharest, in the second half of February 1972, following that the protocol would enter into force on April 1, 1972. The Turkish officials had generally a favorable attitude for granting licenses for the import and export goods provided in the current list. It is significant that on the eve of the visit was granted a license to export to Romania half of the quantity of cotton provided in the commercial protocol (1500 tones). At the same time, Turkish representatives insisted on the positive resolution of the demand for imported goods (petroleum products and chemical fertilizers) as well as on the Turkish tobacco export operation against Romanian cars and machines. (AMAE, Turkey fund 1971, issue 220/1971, TURKEY 5, Vol. 2, note MAE, direction I Relations, no. 01/010401).

From the discussions resulted the interest of Turkey in constructing an assembly line for the 50 hp tractor, if the Romanian side could offer the 40-45 hp tractor, as well as for the cooperation in the production of parts and subassemblies for the Renault 12 (Dacia 1300), which is mounted in Romania and Turkey.

The two foreign ministers pointed out the existence of new possibilities for developing cultural-scientific exchanges, appreciating the usefulness of continuing in 1972 the contacts at government level on the line of ministries of education (education) and health.

As a conclusion of the visit for the talks between the two foreign ministers regarding the political relations were appreciated by the two parties: setting up friendship groups within the two parliaments, contacts and mutual visits between the ministers of culture and national education, representatives foreign ministers, mayors of the two capitals, representatives of the ministries of tourism, the first session of the Romanian-Turkish Joint Economic Commission and the preparations for the second session to take place, the entry into force in September 1971 of the agreement regulating scientific exchanges and artistic.

At the level of 1972, as a general appreciation made on the evolution of the Romanian-Turkish bilateral relations, it can be considered that they marked a normal evolution, and the visit to Turkey of the Minister of Foreign Affairs of Romania, its reception by President Cevdet Sunay and the first Minister Nihat Erim, the talks at the Ministry of Foreign Affairs highlighted real possibilities for further development of bilateral relations.

On the occasion of the meeting held on January 7, 1972, between Romanian diplomats and President Sunay, Prime Minister Nihat Erim and Foreign Minister H. Bayulken expressed their wish, "to do everything to develop relations with our country" (AMAE, Turkey fund 1971, issue 220/1972, File 2352, f. 12).

The agreed actions envisaged on the agenda of bilateral relations for 1972 were: continuation of contacts and exchanges of visits on parliamentary line (meetings between representatives of friendship groups and foreign policy commissions), governmental (visit to Turkey of the Romanian education minister, for Turkey to knows the system of organization and efficiency of higher education in Romania as well as the visits in Romania of the ministers of tourism and health in Turkey.

Regarding the economic relations, the actions envisaged were: the negotiation of the protocol of trade exchanges and the meeting of the joint commission of economic cooperation. Regarding the high level contacts and on the line of the foreign ministries, the planned actions were the visit of the minister of foreign affairs H. Bayulken, in Romania, in response to the visit undertaken in November 1971 by the Romanian minister, Corneliu Mănescu.

As an example, the visit of the first deputy foreign minister, George Macovescu, to Turkey in October 11-16, 1972, to continue contacts and exchange of views between the two ministries on issues of common interest: bilateral issues, cooperation Balkan and other international issues. This is because, during the visit of the Romanian Minister of Foreign Affairs, Corneliu Mănescu, it was agreed to ensure the continuity of the meetings on the line of the foreign ministries.

On the occasion of the visit, the Romanian party expressed its desire "to continue the bilateral contacts at governmental level, on the line of the ministries of foreign, health, tourism, education and education, as well as on the parliamentary line" (AMAE, Turkey fund 1971, issue 220/1972, File 2354, f.10).

Also at the level of bilateral relations, the desire of the Romanian party to establish contacts on the front line of the Socialist Unity in Romania and of the main political parties in Turkey was specified: the Justice Party and the People's Republican Party. At the same time, the Romanian side would be sensitive if the Turkish authorities would allow the name of the Romanian capital to be given a street in Ankara (AMAE, Turkey fund 1971, issue 220/1972, File 2354, telegram 012.604 / 02.09.1972, f. 19.). At the same time, the Romanian side expressed its satisfaction with raising the level of representation of the two parties in the Romanian-Turkish economic joint commission but also on the need to facilitate the normal conduct of trade - the Turkish side issuing import and export licenses for the goods stipulated in the Commercial Protocol signed in Bucharest, in February 1972.

It was also noted the usefulness of signing a two-year cultural and scientific exchange program, for the application of the cultural and scientific exchange agreement concluded in 1966, and as a more urgent problem it was mentioned the interest of the Romanian party that more

specialists in turcology receive the permission of to study documents related to the history of Romania, located in the Turkish archives or the Turkish language and literature.

Regarding consular relations, the ratification of the Convention on Legal Assistance in Civil and Criminal Matters signed in 1968, as well as the need for ratification and the Consular Convention signed in the same year, was appreciated by the Turkish side.

Regarding the Balkan cooperation, the possibility of meeting of the foreign ministers from the Balkan countries was discussed, which together would examine the possibilities of peaceful co-operation and continuous improvement of the relations between the states in the area. A second objective was to sign a joint document reflecting the desire of the people of the Balkans to live in peace and good neighborliness (AMAE, Turkey fund 1971, issue 220/1972, File 2354, f. 15). At the level of 1973, On the occasion of the high level meeting between the Deputy Minister, Nicolae Ecobescu and the Turkish Ambassador to Bucharest, Osman Derinsu, from January 31, 1973, the Romanian diplomat revealed the Romanian side's desire to further develop relations with Turkey in all areas. He also stressed the need for increased joint efforts to develop economic exchanges between the two countries that were not at the level of possibilities. Nicolae Ecobescu also referred to the possibilities for collaboration between the two countries in terms of promoting cooperation in the Balkans (AMAE, Turkey fund 1971, issue 220/1973, File 3971, telegram no. 01./0962/31.01.1973).

In his turn, the Turkish ambassador expressed the wish to contribute to the development of the Romanian-Turkish bilateral relations and to support the cooperation between the two countries in international issues of common interest.

Also after the high level talks, on April 25, 1973, Suleyman Demirel, the president of the Justice Party, explained that "in the development of bilateral relations a certain more difficult period has occurred in the last two years", but "this is not a particular feature of the Romanian-Turkish relations, but a general feature that has manifested itself both in Turkey's external relations and in domestic political life". His opinion was that, with the formation of the Naim Talu government," a new stage in life was passed Turkey's internal stage, although it was a transitional government, which could not engage in large-scale external relations actions, but the Justice Party assumed a new responsibility, through the large number of ministers, (almost half) from the leadership of the party) in the idea of preparing conditions for the post-election period when we plan to form the government alone (AMAE, Turkey fund 1971, issue 220/1973, File 3966, telegram no. 012660 / 25.04.1973, f. 16).

At the end of the talks, S. Demirel expressed the conviction that "there will be beautiful days" for Romanian-Turkish relations, especially that between Romania and Turkey, although countries with different social horizons, there is no litigious or pending issue (AMAE, Turkey fund 1971, issue 220/1973, File 3966, telegram no. 012660 / 25.04.1973, f. 17). He also stated that "the most suitable ways to perform mutually beneficial actions in the field of oil industry, construction of agricultural machines, possibly tractors, chemical industry" must be found. (AMAE, Turkey fund 1971, issue 220/1973, File 3966, telegram no. 012660 / 25.04.1973, f. 17).

On the occasion of the reception offered by the President of Turkey, F. Koruturk, for the heads of the diplomatic missions accredited in Ankara, on June 15, 1972, regarding the contacts that have taken place in recent years between the heads of the two states, as well as at other levels, the Romanian diplomats. They remarked, "that they had an important place in the development of the relations of friendship and cooperation between Romania and Turkey and are prospects to know a new development" (AMAE, Turkey fund 1971, issue 220/1973, File 3966, telegram no. 012381/15.06.1973).

On August 22, 1972, during a visit to the Secretary General of the Turkish Ministry of Foreign Affairs, Ismail Erez, Romanian diplomats expressed their desire, "to extend the political contacts between the two countries, as well as on the line of the two foreign ministries. but also the fact that the Romanian Ministry of Foreign Affairs is willing to continue the exchanges of views initiated in 1970 and, in general, to maintain good contacts with the Turkish Ministry of Foreign Affairs for exchanges of views and information regarding the development of bilateral

relations and in relation to some international problems - European security, military disengagement in Europe, problems of Balkan cooperation, etc." (AMAE, Turkey fund 1971, issue 220/1973, File 3966, telegram no. 012504 / 22.08.1973).

At the level of 1974, the desire of the Romanian party to develop relations with Turkey in all areas was expressed on the occasion of the meeting between Nicolae Ecobescu, Deputy Foreign Minister and O. Derinsu, Turkish Ambassador to Bucharest, on January 31, 1973. The Romanian Minister, emphasized the need to make greater joint efforts to develop economic exchanges between the two countries that do not rise to the level of possibilities, "the Romanian Minister also referred to the possibilities existing in terms of collaboration between the two countries, on the plan to promote cooperation in the Balkans, "O. Derinsu, in turn", expressed the wish to contribute to the development of the Romanian-Turkish bilateral relations and to support the collaboration between the two countries in international issues of common interest (AMAE, Turkey fund 1971, issue 220/1973, File 3971, telegram no. 01./0962/31.01.1973).

The Romanian-Turkish relations registered a slight stagnation during the period 1972-1973, a fact also reported by Suleyman Demirel, who showed that "in the development of bilateral relations there has been a more difficult period in the last two years, a situation that is not a particular feature of the Romanian-Turkish relations, but a general feature that has manifested itself both in the field of Turkey's external relations and in domestic political life (AMAE, Turkey fund 1971, issue 220/1973, File 3971, telegram no. 012260 / 24.04.1973, f. 16).

Suleyman Demirel's views were that, with the formation of the government, Naim Talu has moved to a new stage in Turkey's domestic life, a stage in which though it is a transitional government, which could not engage in large-scale actions External relations, the Justice Party assumed a certain responsibility, by the large number of ministers (almost half of the party leadership) putting its mark on it, in the idea of preparing conditions for the post-election period, when the government will form itself.

Suleyman Demirel expressed the conviction that "good days will come" for Romanian-Turkish relations, especially since Romania and Turkey - although countries with different social systems, there is no litigation or suspension issue. He also stated that among the socialist countries, Romania occupies a special place, as a result of its extremely active policy, promoted by its leaders, and regarding the bilateral relations some preparations must be started: "to study and to agree later, the ways more suitable for performing mutually advantageous collaborative actions, page 196 (AMAE, Turkey fund 1971, issue 220/1973, File 3971, telegram no. 012260 / 24.04.1973, f. 17). He referred to for example in the field of the oil industry, the construction of agricultural machines, possibly tractors the chemical industry. However, he said, "It is necessary to have patience, the problems to be gradually addressed, to study as carefully as possible, to find those who respond to the highest degree of mutual interest". He also promised that he will consult with his colleagues, "so that three or four members of the party, possibly, deputies, senators, will pay a visit to Romania, after the parliament will go on vacation, that is after June 15" (AMAE, Turkey fund 1971, issue 220/1973, File 3971, telegram no. 012260 / 24.04.1973, f. 18).

As a synthesis of the state of relations between Romania and Turkey, at the political-diplomatic level, it is that in the last years, the political-diplomatic relations have undergone an ascending development.

A special role in deepening relations between the two countries was the official visit to Turkey in March 1969 by the President of the State Council N. Ceausescu and the official visit to Romania, in April 1970, by the President of the Republic of Turkey.

The exchange of visits between the two heads of state - which was preceded by mutual visits of the first ministers, foreign ministers, representatives of parliaments - gave impetus to the development of contacts between Romania and Turkey, at the governmental level, on the parliamentary line, between municipalities etc.

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International Humanitarian Law. Seven Decades in the Service of Humanity*

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ABSTRACT: In an era marked by globalization, increasingly bloody and permanent armed conflicts, war threats, it is imperative to respect the foundation of humanity, the Geneva Conventions by adopting actions in the spirit of human rights education and a culture of peace. From the desire to protect the human being and to promote among the youth the humanitarian treasure of humanity, specialists in the field of International Humanitarian Law, non-governmental organizations celebrate the Day of the International Humanitarian Law annually, by a collective commitment in assimilating and promoting the human aspiration, being, peace and the common good.

KEYWORDS: International Humanitarian Law, peace, humanitarian conventions, solidarity rights

Introduction

For the field of International Humanitarian Law, the year 2019 represented the celebration of the seven decades since the adoption of the Geneva Conventions (1949-2019), demonstrating its role and importance in building the humanitarian treasure of humanity. Being aware of the efforts made at international level regarding the law of war and of the need to promote among the young generation humanitarian principles in the event of armed conflict, the Romanian nation has responded positively in this regard.

On May 14, 1956, Romania becomes a part to the Geneva Conventions, when the importance of respecting International Humanitarian Law is recognized. Thus, by Law no. 177/2013 is declared May 14, the Day of International Humanitarian Law, a symbol of guaranteeing the fundamental rights and freedoms, granted to the persons involved in the armed conflicts. National humanitarian law commissions are set up which, through the cooperation with governmental and non-governmental entities, carry out specific actions for International Humanitarian Law.

Among the outstanding national actions in this regard, we mention the 6th edition dedicated to the Day of International Humanitarian Law, organized by the Romanian Association of Humanitarian Law, the Prahova branch, in Ploiesti, a scientific, educational and cultural initiative. The action itself has built an interinstitutional relationship, between the academic, pre-university, through a public-private partnership between local, national and international institutional entities, such as: Police Academy "A.I. Cuza" Bucharest, Romania, Ploiesti County Council, Inspectorate Prahova County School, National College of Education "Regina Maria" Ploieşti, County Library "Nicolae Iorga," General Directorate of Education Culture Chisinau, Republic of Moldova, Pedagogical College "Alexei Mateevici" Chisinau etc.

The approach manifested by the organizers highlighted the common, innovative and even universal character, I could say, transmitting the unity between the political and social decision makers. The initiative initiated by the Ploieștean county community aimed at addressing human rights issues, the Trans dimension and disciplinary ploys, based on humanitarian principles and

* "International Humanitarian Law. Seven decades in the service of humanity" is part of the ARDU Collection - Romanian Association of Humanitarian Law, Prahova branch. One of the many reference papers published in the field, the volume was coordinated by Mrs. Irina Moroianu Zlătescu and Mrs Elena Roxana Vișan, ISBN 978-606-693-141-0.

values, valuable knowledge on humanitarian education, means of interstate co-operation, in order to build a culture for peace and peace.

The theme of the year 2019 marked the 70 years since the adoption of the Geneva Conventions, international legal instruments, which proliferate norms of protection of human rights, of the natural environment, in situations of armed conflict and in time of peace, of the people in suffering: children, women, refugees, migrants, of the cultural heritage of the community. The event proved to be a complex one, structured in three defining stages: holding a national conference, launching a scientific publication dedicated to international humanitarian law, an artistic-plastic catalog made up of vase works by young people, future consecrated artists and of course the awards, the winners of the competition "International humanitarian law in the vision of young people"

A happy experience

The scientific approach dedicated to the Day of International Humanitarian Law has materialized through the work "International Humanitarian Law. Seven decades in the service of humanity," part of the ARDU Collection - Romanian Association of Humanitarian Law, Prahova branch. One of the many reference papers published in the field, the paper was coordinated by Mrs. Irina Moroianu Zlătescu and Mrs Elena Roxana Vișan. The publication contributes significantly to the promotion of International Humanitarian Law, occupying a well-deserved place in the training of any specialist in the field. For the legal literature, the publication responds promptly to the scientific conditions, specialized in International Humanitarian Law, offering views of some military and civilian experts, a moment of reflection on humanitarian issues. Through the deep involvement and dedication of the co-authors, the work is structured in three chapters: *The Geneva Conventions - the humanitarian treasurer of mankind, the transposition into practice of the provisions of the Geneva Conventions: theory vs. practice, the children - the present and future standard of humanity in ensuring peace.*

With a scientific space of about 400 pages, the content of the publication offers a broad, relevant presentation of the provisions of the Geneva Conventions, the indissoluble legal instruments of the humanitarian law system, as well as the perspectives and scope of International Humanitarian Law.

Referring to the evolution of international relations, the need to respect the norms of strengthening security in the world by promoting the right to peace, it is highlighted the indispensable role of the Geneva Conventions, legal instruments, essential in acquiring, maintaining and strengthening the right to peace of each individual, resulting from here indirectly the normal development of nations and the achievement of the objectives of progress and civilization of the whole humanity" (Tudor, 2016, 13).

Chapter I deals with the Geneva Conventions from a theoretical perspective, legislative aspects regarding the protection of persons and goods during armed conflicts, highlighting the responsibility of each state through the governmental and non-governmental structures to harmonize national legislation in order to apply international standards in the humanitarian field. The news of the events highlights pertinent notations of some specialists in the field of international humanitarian law, referring to the necessity of the process "maturing the conscience of humanity," living proof of the defense of "tragic catastrophes caused by war" (Dragoman 2019, 38).

Also remarkable is the intervention of Mrs. prof. univ. dr. Irina Moroianu Zlătescu, who supported the idea that "conflictual relations between states have degenerated into military confrontations, in wars, and this has led to violations of human rights, demonstrating the vicious circle that humanity has not been able to remove."

The focus is also on the evolution of international humanitarian law by introducing in the international documents the disarmament process of some military groups that endanger the life, safety and human rights, but also the reactions of the states and international organizations that promptly and responsibly demand the punishment of crimes war. This kind of approach can do

nothing but determine the harmonious functioning of international society, supported by the reduction of armed conflicts at a global level through a policy of maintaining peace and exercising the right of peace, by all States Parties. The legal construction of peace requires the safeguarding of global and national security through the full reaffirmation of the spirit and creative force of all citizens, a sine qua non condition of a quality education in the spirit of peace and humanity (Vișan 2019a, 210).

Chapter II presents concrete aspects regarding the violation of the Geneva Conventions through a clear analysis, using the case study, but also by specifying the educational valences of International Humanitarian Law, suggesting the idea that Education for International Humanitarian Law (IHL) is carried out on two levels, at the same time, International Humanitarian Law in education and through education.

International Humanitarian Law through education favors the development of humanitarian education as a process of training and learning by using active and participatory techniques and methods in order to acquire its specific knowledge, while International Humanitarian Law in education means the need to respect human rights, to identify mitigation means" (Vișan2019a, 211), of "the effects of armed conflicts by protecting those who do not take part in conflicts or who no longer take part in them and by regulating the means and methods of fighting" (Official Journal of the European Union, 2009/C 303/06).

It is emphasized, the meaning of the world action of education: it is unfolding constantly, as a unitary commitment to the exercise of the right to education supported by a vision and a political will reflected in numerous international and regional human rights treaties, where this right and its interdependence are stipulated with the other human rights (Human Rights Education, 30).

An exceptional chapter is represented by Chapter III of the publication, which presents the county interdisciplinary project with international participation "Educational valences of the international humanitarian law in forming a culture of peace", initiated as a line between the university and the pre-university environment, a continuity of activity curricular in the extracurricular sphere, which concerns the need to know humanitarian standards from the perspective of international humanitarian law. It sought to familiarize young people with the basic norms of international humanitarian law with humanitarian issues at international level, both at peace and at war time, but also at promoting solidarity rights, social and humanitarian aid services.

The theme proposed in 2019, on the occasion of the Day of International Humanitarian Law, was entitled "Children - the standard of present and future humanity in peace assurance." Viewed as a theme of reflection on the tragic dimension of war, but also of promoting a culture of peace, this reinforces the decisive role played by education as a process of teaching and learning, in promoting a culture of peace, capable of building a knowledge space and understanding through cooperation and mutual respect.

The manifestation of peace in the international legal system, more specifically in international humanitarian law, is approached as a dynamic phenomenon supported by a culture in the spirit of humanitarianism and respect for human rights, the basis of economic development, the elimination of differences between states (Vișan 2019a, 210-214).

The prafume of the pacifist knowledge necessary in the formation of the humanitarian education, the best way to build and consolidate the global peace, the lining of an architecture between the present and the posterity civilizations is used. Born from the depths of the human being, from the desire to promote the common good and happiness, the culture of peace is the priceless, immaterial treasure that humanity must cherish and promote through a "pedagogy of reconciliation, under the sign of a new humanism" (Vișan 2019b, 286).

Conclusions

Looking fiercely at the tumultuous past of mankind and confident about a pacifist future, this publication sends us to equally promote and value the culture of peace, the actions put in the service of humanity, which are invaluable to the role and importance of international humanitarian law. Guaranteeing solidarity between people, as "an expression of a conception of life in larger communities and which could only be achieved through joint efforts" (Diaconu, 2010, 170).

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Adequate Housing for People Receiving National Merit Benefits

- Comparative Analysis by Low Income Status -

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ABSTRACT: This research compares the housing condition of people receiving national merit benefits and that of people from the group of low-income families. The research examined the mean difference of the two groups along with correlation and regression analyses. The descriptive statistics and percentage difference show that those who receive national merit benefits are less likely to own houses; to have ventilation installed in their bathroom; to live in asbestos-free houses; to have a solid structural frame, and to live in houses free of water leakage and dew condensation. Regression analysis shows that marital status explains the change of housing satisfaction for these people.

KEYWORDS: national merit benefits, veterans, adequate housing, low-income, marital status

1. Introduction

In a recent study conducted by the Ministry of Patriots and Veterans Affairs (MPVA), 67% of the people in Korea feel proud as Koreans themselves (MPVA 2017). Koreans's sense of citizenship was ranked to be the 34th, and it falls in the lower tier amongst other countries included in the study (Kim, 2005). Ironically, the research shows that those who are in their 60s and above or unemployed have greater pride in their country than those who are in the 10s, 20s, and 30s. When compared this pride in their country by income level, those who make below 2,000,000 KRW have the highest level of love and pride for their country. These results come down to a depressing conclusion, those who enjoy the country's growth and resources are less likely to feel proud of their country than the others, whereas those who eke out a living from minimal resources or aged people have more love and pride in their country. One can recall a similar phenomenon before the country's fate fell in the hands of Japanese Imperialist a century ago: rich and educated people gave in to Japan, while ordinary people with minimal resources sacrificed so much to restore the sovereignty of the country. Patriotism must be encouraged irrespective of cultural influence, political landscape, and values upheld by administrations. Otherwise, crises that a country face may take a bigger toll on its people and destiny.

Patriotism cannot be taught and shoved into the heads of its people. A society can inspire patriotism to its people only by the way it honors those who sacrificed themselves for the country. This research was set out to uncover how the Korean society is treating the people who themselves and whose parents had sacrificed for the country in micro-level. Of many requisites that must be provided to these people, the need for adequate housing is fundamental. Unfortunately, many of these people are struggling to make a living. Therefore, this research investigates these people who are in low-income range and are receiving national merit benefits and compares them with the average low-income family.

2. Literature Review

2.1 Public Benefits for Patriotism

The purpose of establishing public welfare policy for a patriotic act is to financially and socially reward those who sacrificed or contributed to a country so that they may live with honor and pride (Suh 2011). And the ultimate goal of offering benefits for the people is to inspire patriotism

throughout the society so as to promote unity and growth (Song & Lim, 2008). How the people who sacrificed for their country and their descendants are being protected sends an important message to the general public about the love for the country.

2.2 Benefits and Respect for the heroes and their children

In 2003, the Ministry of Patriots and Veterans Affairs (MPVA) started dispatching micro-level welfare to provide veterans and others who sacrificed for the country; however, the aging population of the independence activists and Korean war veterans made it difficult for the public service to provide the welfare service they needed (Lee & Choi 2011). Fortunately, more than 80% of people in Korea said they acknowledge and respect those who are receiving national merit benefits. And young people 20s and below showed the highest level of respect (MPVA 2017). MPVA (2017) also found that school-aged students respect these people receiving national merit benefits more, and those in Daegu and Gyeongbuk regions appreciate these people more so than others.

2.3 Research Question

- How do housing condition of people who receive national merit benefits differ from the rest of the low-income family?
- What affects the people's satisfaction with their housing?

3. Analysis

3.1 Method

The data used in this research comes from the Korea Housing Survey commissioned by the Ministry of Land, Infrastructure and Transport (MOLIT). The survey was designed to understand the housing condition and needs of a low-income family. Though it would have been desirable to use the latest survey, the data of those who receive national merit benefits are not included in the recent survey. The survey tried to sample10,000 low-income households throughout Korea. Of the sample, those who are receiving the national merit benefits had been filtered out for analysis.

3.2 Descriptive Statistics

Table 1. Descriptive Statistics

	N	Mean	SD	Minim.	Maxim.
Gender (Female)	37	.30	.46	0	1
Age	37	4.86	1.56	1	7
Years w/o House	23	22.74	13.01	1	40
Fire Detector	37	.51	.51	0	1
Num. Family Member	37	2.05	1.27	1	7
Education	37	2.03	1.09	1	4
Caretaker	37	.65	.48	0	1
Married	37	.32	.48	0	1
Handicapped	37	.35	.48	0	1
In Debt	37	.27	.45	0	1
Income	37	89.87	50.60	30.5	254
Satisfaction w/ Housing	37	2.74	.59	1	3.86
Valid N (Listwise)	23				

Looking at Table 1, the female-male ratio was 3:7 since women were coded as 1 and men were coded as 0. People's age were coded as follows: (1) under 30, (2) 30 ~ 39, (3) 40 ~ 49, (4) 50 ~ 59, (5) 60 ~ 69, (6) 70 ~ 79, (7) above 80. Therefore, respondents' wage fell in the range above and below the 50s. Next, on average, the respondents had 22.74 years without adequate housing (SD: 13.01). Nearly 51% of the respondents had fire detectors in their house. They were living with an average of 2.05 family members in their household. When it comes to education level, they had an average education of middle school (K-9), which had been the mandatory public education for the past several decades. Approximately 65% of the respondents had dependents to take care of (SD: .48). Nearly 35% of the respondents were married, and 35% of them had a disability. 27% of the respondents were in debt. Finally, the respondents had the average monthly income of 898,712 KRW (SD: 50.6), and their satisfaction with housing was found to be 2.74 (SD: .59).

Table 2. Place of Residence

Place of Residence	Frequency	Percent	Cumulative Percent
Busan	7	18.9	18.9
Jeju	6	16.2	35.1
Seoul	5	13.5	48.6
Jeonnam	5	10.8	62.2
Gyeonggi	4	8.1	73.0
Jeonbuk	3	5.4	81.1
Gwangju	2	2.7	86.5
Inchon	1	2.7	89.2
Daejon	1	2.7	91.9
Ulsan	1	2.7	94.6
Chungnam	1	2.7	97.3
Gyeongbuk	1	2.7	100.0
Total	*37*	*100.0*	*100.0*

Looking at the Table 2, 62% of the people who receive the national merit benefits are residing in Busan, Jeju, and Seoul. Considering the small sample size collected for this population, one should cautiously draw inference about the spread of these people receiving national merit benefits. Perhaps, this data must be cross-checked with the data from the *Ministry of Patriots and Veterans Affairs* if available.

Table 3. Types of Occupancy

Place of Residence	Frequency	Percent	Cumulative %	Low-income Family
Monthly Rental w/ Coll.	20	54.1	54.1	36.57
Free of Charge	8	21.6	75.7	17.29
Own	4	10.8	86.5	33.41
Key Money	3	8.1	94.6	7.81
Monthly Rental	2	5.4	100.0	4.81
Total	*37*	*100.0*	*100.0*	*99.9*

Though unspecified, more than half of the respondents are occupying their houses as a monthly rental with collateral (key money). About 20% of the respondents are occupying their houses free of charge. Only about 10% of the people own their houses, and 8% of the people live on a key money basis. When compared to average low-income households, those who receive national merit benefits are much less likely to own houses (10.8% to 33.41).

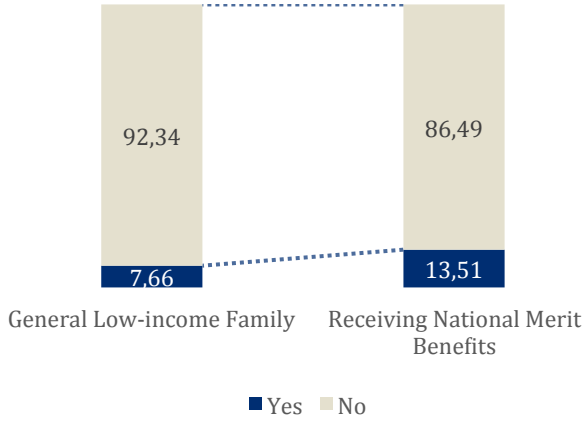

Figure 1. Is your roof made up of *Asbestos Cement Slate?*

Asbestos cement slate is known to have a highly toxic carcinogen; as a result, the nation-wide effort is being poured into removing asbestos cement slate (Kim et al. 2010). Figure 1 shows the percentage difference between the general low-income family and those who receive national merit benefits. When comparing the percentage difference alone, people who receive national merit benefits are more likely to live in houses with roofs made up of asbestos cement slate.

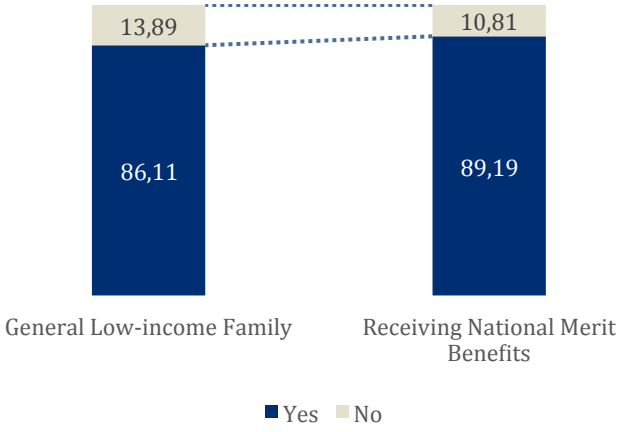

Figure 2. In your house, is there *a room without a window*?

By the percentage difference alone, those who receive national merit benefits are more likely to live in houses with windows. A statistical test needs to be conducted to see if the mean difference is statistically significant.

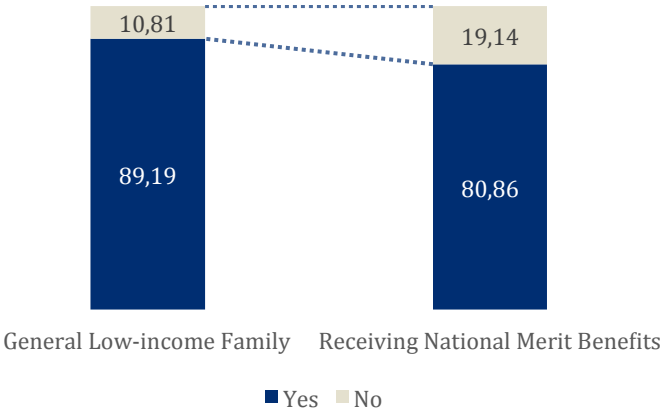

Figure 3. Is there *a ventilation in your bathroom*?

Bathroom ventilation is critical to family hygiene (Bonnefoy 2007). The moist control in the bathroom is associated with various respiratory and pest problem in the house. When compared to the percentage difference, those who receive national merit benefits are *less* likely to have ventilation installed in their bathroom.

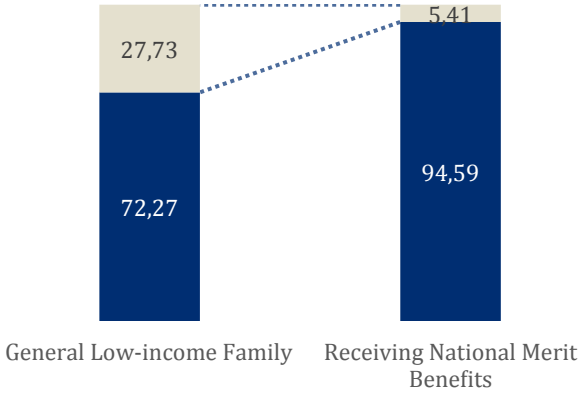

Figure 4. Is there *a heating system* installed in your room?

A heating system is critical in maintaining physical and emotional well-being. Compared to the average low-income family, those who are receiving national merit benefits are much more likely to have the heating system installed in the room. The quality of the heating must be determined with caution.

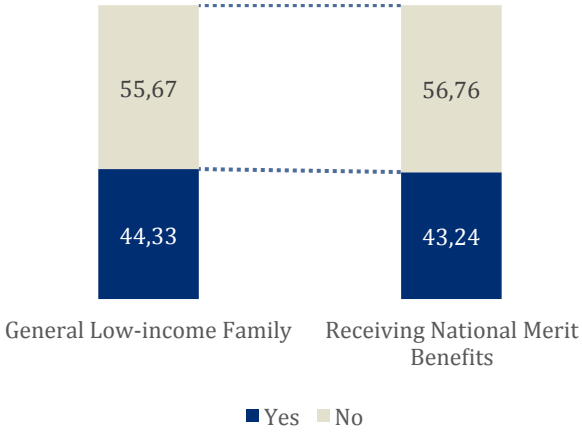

Figure 5. Is your house *well-insulated*?

When asked how well the house is insulated, negligible difference was found between the two groups.

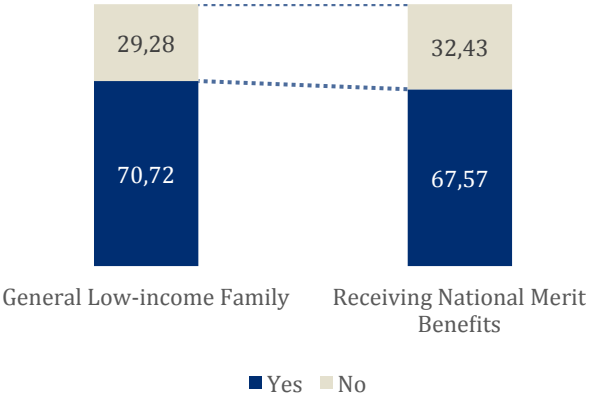

Figure 6. Is *the frame of your house* built strong enough?

Many Koreans still recall the collapse of *Sampoong Department Store* and *Seongsu Bridge*. These were the structural and architectural failures; the tragic accidents triggered the public distrust in the old houses that were built prior to the 1990s. When asked whether or not their houses, and their structural frame, are strong enough, those who receive national merit benefits *less* likely to agree.

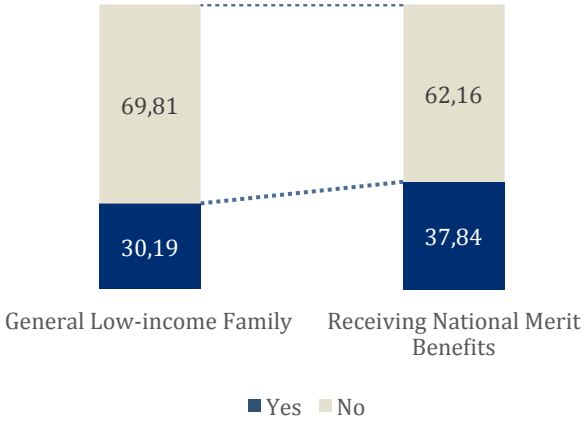

Figure 7. Is there water leakage or dew condensation in your house?

When asked whether or not there is water leakage or dew condensation in the house, those who receive national merit benefits are more likely to answer *yes*. This answer suggests that those who are receiving the national merit benefits are living in poorly built housing.

3.3 Correlation Analysis

Table 4. Pearson's Correlations of Target Variables

	Gender	Age	Years w/o house	Fire Detector	Num. Family	Education	Dependant	Married	Handicap	In Debt	Income
Age	-.02										
w/o House	-.09	.70**									
Fire Detect.	.28	-.19	-.09								
Num. Family	-.03	-.39*	-.45*	.22							
Education	-.02	-.66**	-.48*	.33*	.56**						
Dependant	.11	**-.17**	-.37	.08	.39*	.23					
Married	-.32	.21	.15	-.02	.52**	.04	.28				
Handicap	-.11	-.23	-.04	.26	.19	.24	.07	.10			
In Debt	.00	-.58**	-.52*	.23	.17	.44**	.07	-.03	.19		
Income	-.06	-.64**	-.57**	.24	.42*	.60**	.39*	.14	.18	.43**	
Housing Satisfaction	-.03	-.07	.15	.18	.41*	.15	.09	.45*	.08	.17	.16

** p < .05* *** p < .01*

When correlated variables as illustrated in Table 4, gender and handicap showed no statistically significant correlation with other variables of interests. Age appears to show strong correlation with the number of years they lived without adequate housing (r = .70, p < .001); the number of family members living together (r = -.39, p < .02); years of education received (r = -.66, p < .001); whether or not they are in debt (r = -.58, p < .001); and their income level (r = -.64, p < .001). Looking at the correlation between age and the number of years the respondents lived without adequate housing, one can suspect that they don't own their houses.

The correlation between age and the number of family members may suggest that as the respondents' age, the family leave home, which is a more or less natural phenomenon. The correlation between age and debt suggest that the respondents are likely to pay back their debt as they age in order to minimize financial risks or burden for themselves and their family.

The number of years the respondents lived without adequate housing is correlated with the number of family they have (r = -.45, p = .03); the education level (r = -.48, p =.02); their debt (r = -.52, p = .01); and income level (r = -.57, p < .01). The negative correlation found between the years lived without adequate housing and the number of family members may suggest that the more they live without adequate housing the more likely the number of family member declines. Interestingly enough, the number of years living without adequate housing increases, the debt seems to decrease. The exact cause of this phenomenon is subject for further study. Also, the number of years living without adequate housing increases, the average income level decreases.

The installation of fire detector in the house used as a marker for the decency of housing condition because substandard housings are less likely have the fire detector installed. The fire detector is moderately correlated with the respondents' education level (r = .33, p < .05). This suggests that respondents knowledge and awareness of danger fostered in education may be associated with their choice of housing with fire detectors.

The number of family members with which the respondents live is correlated with the education level (r = .56, p < .001); whether or not they are supporting dependants (r = .39 p = .02); marital status (r = .52, p = .001); income level (r = .42, p = .01); their housing satisfaction (r = .41, p = .01). Despite the known knowledge that the education level is negatively correlated with the number of family member, this strongly positive correlation between the number of family member and education is an interesting discovery. Also, the number of family members is positively correlated with the income level and housing satisfaction. This must be dug deeper.

Education is correlated with the debt status (r = .44, p < .01) and the income level (r = .60, p < .001). The positive correlation between education and income level is universally known. However, the positive correlation between income and education demands further investigation.

Next, the respondents' status being a caretaker having one or more dependants is positively correlated with income (r = .39, p < .02). This result suggests that having dependants force respondents to work and generate income.

Marital status is correlated with the respondents' satisfaction with housing (r = .45 p < .01). Based on this finding, one may reasonably infer that having a spouse can help respondents better maintain the decency of housing condition. Besides, debt is positively correlated with the income level (r = .43, p < .01). When one is in debt, s/he is more likely to work to generate income to pay off.

3.4 Regression Analysis

Based on the findings above, a regression model was fitted to predict the respondents' satisfaction with their housing.

Table 5. Regression analysis of Travel Satisfaction

	Unstandardized Coefficient		Standardized	*t*	*p*-value
	B	Standard Error	Beta		
Constant	2.98	.59		5.03	.00
Age	-.08	.09	-.20	-.89	.38
Handicap	-.01	.20	-.01	-.07	.94
Dependants	-.10	.22	-.08	-.46	.65
Married	.64	.22	.51	2.88	.01
Income	-5.39	.00	-.01	-.02	.98

Dependent Variable: Satisfaction w/ Housing

Regression equation

"$\hat{Y}$ = 2.98 - .08(age) - .01(handicap) -.01 (dependant) + .64 (Married) -5.39 (Income)"

Though not provided in the Table 5, the explanatory power of this model, the R-squared value, was .23, indicating that approximately 23% of the variance in the satisfaction is associated with the variables included in the above model. As shown in Figure 8, the normality assumption of this model was in at a satisfactory level. To interpret the regression output, one can conclude that, when all the other variables are held constant, married people are .64 more likely to be satisfied with their housing condition than those who are single (p = .007).

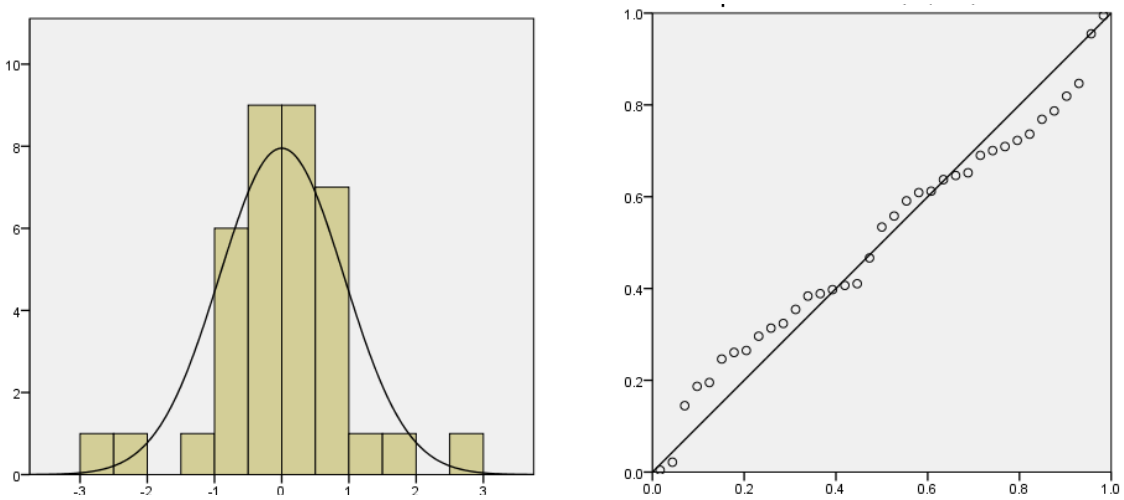

Figure 8. Check for Normality Assumption

4. Conclusion & Discussion

4.1 Summary/Restatement

The people who are receiving the national merit benefits had either sacrificed their well-being or lost so much for our country. Unfortunately, their contribution and sacrifice are not adequately reflected in their living. Housing, one of the most basic needs for a decent life, is offered through public policy; however, one must now pay attention to the quality of such benefits. Even compared to the low-income family, the society's message that encourages patriotism is at odds when looking at the substandard life of these people who deserve much more.

Compared to average low-income family, the people who receive the national merit benefits are *much less* likely to own their houses; *less* likely to have ventilation installed in their bathroom, less likely to live in asbestos free houses, *less* likely to live in houses that they perceive to have solid structural frames, *less* likely to live in houses free of water leakage and dew condensation.

Pearson's correlation had revealed that these people are fulfilling their responsibility as caretakers of a family. Despite their less-than sufficient financial status, their satisfaction with housing is correlated with an increased number of family members. They not only sacrificed for their country, they find joy in their family. Unfortunately, only 32% of them are married, and being married seems to be an important factor influencing their satisfaction with housing. Marriage is a personal choice in which a country finds a little place. However, these people and their parents had made their personal choice to sacrifice for their country. Perhaps, the finding of this research can shed light on the rehabilitation program and even policy-making.

4.2 Limitation

The percentage difference illustrated above must be taken with caution because a proper statistical test like t-test to compare mean difference was not conducted in this analysis. Comparing the means of 37 and 9,968 is not ideal because the standard error of the group consisting of those who receive national merit benefits may be too large for comparison. Next, one should take this regression model with caution because of the limited sample size, limited number of variables could be included in the model. Still, the findings of this research may be used as an initiator for an in-depth study targeting these people who deserve our country's protection and gratitude in every imaginable way.

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RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES

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The Way Verbs of Perception Play a Role in the Poems by the Blind

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ABSTRACT: Due to the importance of vision in human perception, different verbal behaviors are expected in the congenitally blind individuals and the sighted ones. Therefore, in this research, two groups of poets (the congenitally blind and control group of the sighted) were found to explore how differently they represent their perception of the five predominant senses. Strikingly, the statistical results show that the frequency of verbs of vision are not only significantly high but also are more frequent than the same verbs in the poems of the sighted. This might be explained through the fact that perception is reflected and codified in language. Thus, the blind can perceive visual phenomena through language however they are congenitally blind. The second qualitative experiment shows that these blind people use different visual metaphors more than the sighted. This might prove Halliday and Mathiessen's belief that conceptual structure and semantic structure are just different metaphors of one thing.

KEYWORDS: blind, metaphor, perception verb, vision

1. Introduction

It seems that lack of vision as a vital sense can result in differences between sighted and blind individuals' perceptions. Part of perception might be traced to language. Moreover, Verbs of perception shows how people verbalize their perceptions. Among the five various perception fields of vision, hearing, touch, taste, and smell, as Allan (2008) mentioned, vision is the most significant of all senses. Due to the importance of vision in the conceptualization of the world before learning a language, there are various opinions. Sweetser (1990) illustrated that the leading cause is based on the fact that the visual sense is our "primary source of objective data about the world" and "the strongest and most reliable." Moreover, in child language acquisition, it can be seen that vision is the earliest sense to improve. In addition to the discussion of intellectual comprehension, the first metaphor is consequently "Understanding is Seeing." The manner that people talk and the reason concerning mental procedures given visual perception have developed a huge literature and relatively heated discussion. Metaphors of "Understanding is Seeing" (Goschler 2005; Kövecses 2010; Lakoff and Johnson 1980), "Thinking is Seeing" (Danesi 1990), or "Physical Sight = Knowledge, Intellection/Physical Vision = Mental 'Vision'" (Sweetser 1990), have been shown by one and all with the realization in the metaphorical expression "I see (what you mean)." Lakoff and Johnson (1980) and Gibbs (2006) illustrated that the congenitally blind should experience severe problems in making sense of metaphorical expressions rooted in the "Understanding is Seeing" conceptual metaphor.

Mandler (2005, 149), for example, explained that infants "in their early conceptualization of the world" derive the information spatially, and "the spatial information that is crucial to human concept formation is delivered primarily by the visual system." She added: Although spatial information can be gleaned from touch and audition (see Popova 2005), these modalities are much less effective in encoding motion, paths, containment, and the other spatial information crucial for identifying objects and understanding events. It is probably for this reason that blindness delays conceptual development before language is learned; the most efficient source of information needed for concept formation is missing. In comparison with the other senses, there are a lot of explanations for vision to be related to intellect (Mandler 2005, 149).

Deane (2005, 247), on the other hand, talks about "supramodal images" to show that imagery is not so visual, but auditory, olfactory, or kinesthetic as well. Therefore, he says that

there are also "*supramodal* images which define spatial relations without depending solely on visual perception." He added that "this conclusion is reinforced by the competence of blind individuals on spatial tasks." However, Zlatev (2005), accepting "*cross-modal* (as opposed to amodal) structures, involving sensorimotor coordination", argued against Mandler (2004) who gave prominence to visual data for the concept of physical force and other image schemas, claiming that blindness from birth does not lead to "serious mental dysfunctioning". He referred to Landau and Gleitman (1985) for "only slight delays in cognitive development and language onset, but otherwise a completely normal developmental pattern in language acquisition."

So while vision is undoubtedly a very important source of experience for normal children, it cannot be a *necessary* ground for language. A key to the puzzle could be the fact that the child received extraordinary amounts of haptic and verbal interaction from her caregivers, which appeared to compensate for the lack of vision. […] blind children are given bodily and verbal interaction will not be cognitively and linguistically retarded (Zlatev 2005, 329, 335)

Popova (2005, 400) referred to Revesz (1950) to claim that, [T]he tactile sense equals vision in its importance as a *space perceiving* and *space constituting* sense. It may not develop fully in the sighted due to the influence of vision, but it is nevertheless autonomous because the congenitally blind have a spatial understanding very similar to that of the sighted. More recently, in her extensive studies of very young infants, Streri (1993) has shown that the discrimination of perceptual properties (e.g., shape and size of objects) by two-months-old babies is achieved equally well by manipulation only, as it is by sight only.

Therefore, this paper explores how perception verbs, especially verbs of vision and visually perceived phenomena are used in both congenitally blind individuals and sighted control group. The main goals are to investigate the frequencies of each type of verb related to five senses, and then to explain how far visual objects and phenomena are represented in the poems of the participants.

Moreover, according to Yazdani et al. (2011), critical theorists of languages believe that it is hard to make a difference between literary and ordinary languages. Both types make attempts to use metaphors to convey meaning. They purely transfer meaning. Metaphors include target and source regarding two types.

2. Method

2.1. Participants

Two congenitally blind (two female) and two sighted participants (two female)'s poems were used in the experiment. All of them were native speakers of Persian. The causes of blindness included retinopathy of prematurity. All of them were selected among females to reduce the gender effect. More than two congenitally blind poets were preferred but just two female congenitally blind poets were available at the moment to be observed.

2.2. Material

Modern poetry was used in the research to minimize the effective factors of different types of compulsory prosodic patterns of Persian poetry. In another word, some frameworks of Persian poetry delimit the scope of words, metaphors, and structures which a poet uses. Fifteen poems of each poet were selected and it is attempted to choose nearly the same total lengths of the sample texts. Mahin Zoraghi (2004) that her book is 'Man to rā kāl xāham Čid (I will pick you green)' and Samaneh Mosadegh (2006) that her book is 'Did bidār (enlighted eye)' are chosen for congenitally blind participants. In addition, Roya Zarrin (2003) that her book is 'Zamin be orad-e āšeqane mohtāj ast (the earth needs lovely poems)', and Nahid Abbasi (2001) that her book is 'Dar fasl-hā-e safar (in seasons of the travel)' are selected for control group. Furthermore, only two congenitally blind poets were found in Persian. As a result, an in-depth analysis was conducted.

3. Result

All perception verbs introduced in literature were analyzed both in congenitally blind participants' texts and the control group's one. The average and examples of perception verbs in both groups can be seen in tables below.

Table 1. The average of perception verbs in Blind group's texts

Group	vision	smell	hearing	taste	touch
Blinds	42.42	12.12	9.09	0.01	36.36
Examples in Farsi	'Didan'	'bu kardan'	'Šenidan'	'maze dādan'	'lams kardan'
Translation in English	'to see'	'to smell'	'to hear'	'to taste'	'to touch'

Table 2. The average of perception verbs in control group's texts

Group	vision	smell	hearing	taste	touch
Control	36.36	18.18	0.01	9.09	36.36
Examples in Farsi	'Didan'	'bu kardan'	'Šenidan'	'maze dādan'	'lams kardan'
Translation in English	'to see'	'to smell'	'to hear'	'to taste'	'to touch'

3.1. Experiment 1

Statistical analysis was conducted to find any significant quantitative difference between the congenitally blind and the control group, the sighted. The results are as follows:

Table 3. Statistical analysis between the congenitally blind and the control group

	Test Value = 0.05					
					95% Confidence Interval of the Difference	
	t	Df	Sig. (2-tailed)	Mean Difference	Lower	Upper
vision	13.000	1	.049	39.38900	.8892	77.8888
smell	5.000	1	.126	15.14900	-23.3508	53.6488
hearing	1.000	1	.500	4.54400	-53.2056	62.2936
taste	1.000	1	.500	4.54400	-53.2057	62.2937
touch	726.180	1	.001	36.30900	35.6737	36.9443

To analyze the data, SPSS was used. There was not any significant difference between 2 groups concerning vision and touch, df=1 and P<0.05, df=1 and P<0.05, respectively. On the other hand, there was a significant difference in the scores for smell df=1, P>0.05), hearing (df=1, P>0.05), and taste (df=1, P>0.05). This is unexpectedly interesting because of the lack of vision in the congenitally blind people supposed to lead to a low frequency of verbs of vision. However, the high frequency of verbs of touch was expectable.

3.2. Experiment 2

In a qualitative research, the linguistic elements related to vision including colors, distance, spatial metaphors, dimension, and depth were studied in both groups to investigate the acceptability of the metaphor "Understanding is Seeing" (Goschler 2005; Kövecses 2010; Lakoff and Johnson 1980),

"Thinking is Seeing" (Danesi 1990), or "Physical Sight = Knowledge, Intellection/Physical Vision = Mental 'Vision'" (Sweetser 1990) to find whether there is a great difference between congenitally blind poets and healthy ones. In the examples below, there are some examples concerning five senses:

1. 'rang e qam'
color-ez sadness
'the color of sadness'
2. 'entehā ye adamiat'
endlessness-ez human being
'the end of human being'
3. 'falseā ye zard'
seasons-ez yellow
'the yellow seasons'
4. 'durtare xalvat'
further-ez privacy
'beyond privacy'
5. 'rāh e derāz'
way-ez long
'a long way'
6. 'qarqe tamæšæ'
deep- ez seeing
'a deep seeing'
7. 'azæye Čæšmæn'
sadness-ez eye-plr
'sadness of eyes'
8. 'zehne xæli'
mind-ez empty
'empty mind'

It was observed that all of the senses were found in both groups. Interestingly, blind poets used the concepts of colors, dimension, depth, distance, and spatial metaphors more than the control group, the sighted.

4. Discussion

As the experiment 1 showed, verbs of vision were more frequent in the congenitally blind than the sighted. This needs an explanation. Viberg (2008) maintains that a host of distinct verbs are directly related to the mentioned senses, for example seeing, hearing, seeing, drinking, feeling and touching, but these perception verbs are the main verbs owing to their complicated polysemy and cross-linguistic uniformity. Based on the cross-linguistic regularity found in verbs of perception, as claimed by Viberg (2008), the same classification can be applied to Persian in the Table below.

Table 4. The basic model of perception verbs in Persian

Group	VISION	HEARING	TOUCH	TASTE	SMELL
In English	'See'	'Hear'	'Touch'	'eat/drink'	smell
In Farsi	'Didan'	'Šenidan'	'lams kardan'	'xordan, nušdan'	'buidan'

Along with the cross-linguistic trends shown thus far, a hierarchy of lexicalization is marked given the five senses. Based on 50 languages, the hierarchy is proposed in the following order by Viberg (1984, 1993):

Table 5. Hierarchy within verbs of perception

Vision > Hearing > Touch > Taste > Smell

Were one language to exhibit merely one of the above perception verbs, it would be "see". Given the fact that another language would have two of them, it would be "see" and "hear" (Viberg 2008, 1993). This research indicates that metaphors can be learned through language since metaphors are traced to a sign system, specific language. A sign is used instead of the other thing. A metaphor is created in a sign system. This study reaches a conclusion that congenitally blind ones are capable of using perception verbs and the related metaphors based on vision. This might help to explain why the congenitally blind use more verbs of vision than the sighted in their poems. Thus, as Halliday and Matthiessen (1999, 2), knowledge and meaning are not different issues and therefore conceptual structures and semantic structures are just two metaphors of one phenomenon. This opinion is of course in contrast to those viewpoints confirming that conceptual structures are reflected in semantic structures of language.

The study aims to show the difference between congenitally blind poets and sighted ones regarding perception verbs. It is concluded that congenitally blind poets, in this research, use perception verbs associated with visual and haptic senses the same as sighted ones. The same frequency of verbs related to touching seems to be natural among congenitally blind poets in the study. Still, the same frequency of verbs regarding vision can be seen considerably surprising in the congenitally blind and the control group.

To know the reason behind the quantitative results in the first experiment, a qualitative study is conducted. In the second experiment, it is showed that the congenitally blind poets use the metaphoric elements related to vision (i.e. colors, distance, spatial metaphors, dimension, and depth) more than control groups.

Seemingly, the study indicates that congenitally blind poet's perception is rooted in language regarding visual verbs leading to the fact that they can enjoy visual metaphors more than sighted ones.

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Productivity Diamond

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ABSTRACT: The article deals with productivity in management and leadership through the presentation of the "70's Research" and the innovative model that emerged in its trail: "Productivity Diamond." During my work as a lecturer in leadership decision-making in various companies and organizations in Israel, and during the training and guidance of executives of different personality types and cultural origins and sectors, I developed the desire to investigate the area of productivity that leads to excellence. The research journey I embarked on (2017-2019) has the ultimate purpose to characterize productivity that leads to excellence through examining the perceptions and attitudes towards the subject of managers from different sectors and cultures. The research method used is qualitative and conducted through semi-structured narrative interviews that took place with 70 leading managers and commanders in their field. The second focus of the article deals with a model that was shaped as a result of the "Productivity Diamond" study. This model maps the burning challenges that emerged from the interview analysis and is in fact a key organizer for an entire applied method that is relevant to real assimilation of both a long-term productivity and a set of innovative tools and skills that help executives implement productivity leading to excellence - MPI. The research is entitled as the "70's Research" in light of the number of participants in it and also because of its timing near Israel's 70th Anniversary.

KEYWORDS: Managers developments, Leadership, Productivity, Efficiency, Decision Making, Cultural Competency, Training, Productivity Led Excellency (PLE), Productivity Diamond, Managers Productivity Language (MPL)

Introduction

Human productivity is certainly a great thing yet a very complex challenge. The more it is understood, the better one's ability to lead and manage one's personal and professional relationships becomes. Therefore, understanding and awareness are an essential step in increasing happiness and reducing frustrations and is particularly valid when it comes to the leadership of executives who are keen to lead to success and excellence in their organizations.

Recent research highlights that managers tend to spend a lot of effort and a significant amount of time in order to stimulate productivity in themselves, their environment, employees, family members, customers and colleagues (Arieli 2018).

Traditionally, productivity is perceived as a wonderful thing that revolves around a simple yet highly valued concept of striving for maximum efficiency of time and people management and is proportional to perceptions of status, whether professional or social.

At the same time, leading scholars such as Covey (2000) and Goldsmith (2017) emphasize the need for new strategies…" There is no doubt that there is a need... For a paradigm shift and a change of attitude that is not on a different level but in type – Abandoning the foundations of ways in which we think and act ineffectively. We need a revolution, not evolution. We need to move beyond time management to life leadership – To a fourth-generation based on paradigms that will produce a quality of life in effect…" (Covey 2000, 36). Further inspiration for this research is found in the definition of the term 'Productivity' according to Webster dictionary (http://www.webster-dictionary.org/):

1. Having the quality or power of producing; yielding or furnishing results; which increases the number or amount of products. Producing, or able to produce, in large measure; fertile; profitable.
2. The quality or state of being productive; productiveness. *Not indeed as the product, but as the producing power*, the productivity.

3. Bringing into being; causing to exist; as, an age productive of great men; a spirit productive of heroic achievements and *kindle with thy own productive fire*.

In Webster's various definitions to demonstrate productivity, different ways of reference can be found. During the research process, these definitions played the role of three significant dimensions representing PLE by the following designations respectively: functional dimension, quality dimension, and energetic dimension. These new concepts guided and accompanied the interview analysis process that will be presented below, contributing to the research main goal to characterize PLE in leadership.

The 70th Research

Given the discrepancies in the complexity of the productivity challenge and the assumption that commonly perceived knowledge on the subject is largely partial, the primary aim of this research is to inspect and characterize PLE with reference to the three aspects – Functional, Qualitiative and energetic aspects and to solidify the finding into one applicable model. Three other objectives of the research were to examine and identify whether a cultural common ground exists among different sectors regarding perceptions of excellence led productivity, to focus on the areas that relate to excellence led productivity according to the executives and to examine what are the causes and factors that they perceive to stimulate productivity.

In order to address these challenges, the research method that was employed is qualitative (Shkedi 2014) in essence and was performed by analyzing semi-structured (Edwards & Holland 2013) narrative interviews (Fontana & Frey 2000) that asked the positions and perceptions of various executives regarding productivity that leads to excellence. The population that was selected to participate in the study for this purpose had to be multi-cultural in essence and was manifested in two ways: Both in keeping an appropriate multi-cultural representation through the participation of executives from different ethnic and cultural backgrounds, in a manner that is proportional to Israeli society, including native-born Israelis, new immigrants, executives and officers from the Israeli-Arab sector, Israeli-Ethiopians, men and women, as well as young and more experienced executives in the workforce; And through the participation of executives from various sectors of the economy, including: Commercial companies, medical centers, industrial companies, security and the education industries[1].

The research named the '70th research' in light of the number of participants and also because of it's timing near the 70th anniversary of Israel.

Table 1. Characteristics of participants in the study

Characteristics	**Number of Participants**
Men	40
Women	30
Eexecutives managers	25
Mid-levels managers	45
Senior Israelis	52
Religious [3]	20
Secular	50
Ethnic minorities	18

Young managers	32
Senior managers (55 years+)	38
Military and security commanders	15
Education	18
Industry	10
High tech	12
Community	8
Healthcare	7

Source: The 70th' Research, Michal Asaf-Kremer

Conclusions

The part of the findings that emerged from the research deals with the main conclusions that were found from the analysis of the narrative interviews and includes the most significant links between the perceptions and stances of the participants in the study regarding to PLE.

The interviews analysis process led to four main themes: 1. Characteristics – Managers' perceptions of PLE. 2. PLE Impact Factors. 3. Main Challenges. 4. Development and Growth

Characteristics – Managers' perceptions of PLE

The analysis of the interviews shows that there are common denominators in the perception of PLE among managers from different employment sectors and among different managers at different levels:

- Business sector managers perceive productivity according to the functional dimension, with approximately 80% of them (35 out of 45 middle managers) emphasizing productivity in terms of efficiency and the rate of output. For example: "*Productivity means to achieve substantially plenty plus a little more ...within the time limit as planned*" (R.G. senior financial manager of an industrial company).
- Educational sector executives perceive productivity according to its functional and qualitative dimension - approximately 90% of principals engaged in education (30 out of 33) connect productivity to quality concepts related to meaning, satisfaction and self-fulfillment. For example: *"To do my best every day and not to forget the vision from which I founded the Science and Judaism schools ...*" (B. Founder and CEO of the Education Network).
- Approximately 25% of senior executives in different sectors (5 out of 25) perceive productivity according to the energy dimension and describe productivity as a combination of ambiance, synchronization and collaborations, along with efficiency, rate of production and a tie to motivation. For example: "*To create the most beautiful and successful symphony among the various interlocking instruments we have in the organization ...*" (CEO of the Water Company).

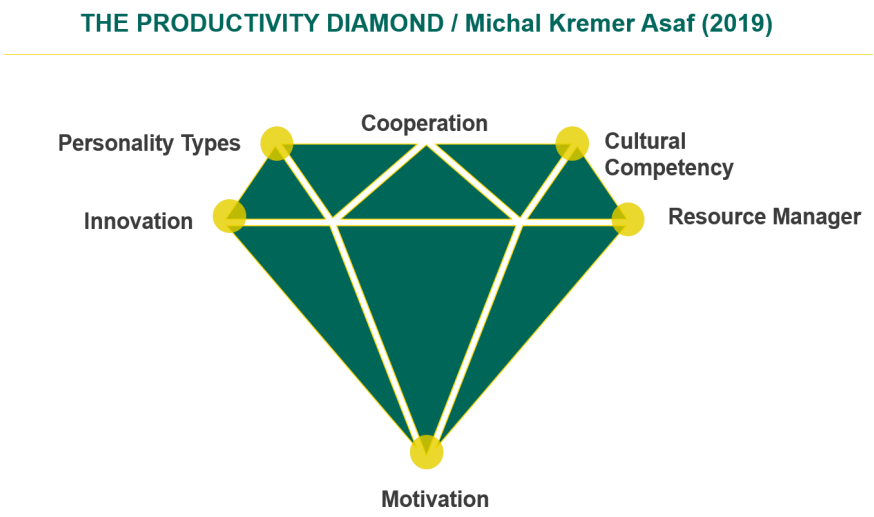
The dominance of the functional dimension among business sector executives can be understood from the connection to the realm of ambient concepts in which they operate, since they are restrained and oriented towards success measured primarily as an assessment of quantity and numbers, and by a clear bottom line about success or failure in the task at hand. As a rule, in the research, the jargon of the managers of the business world seems to consider functionality as a dominant part of the path to excellence leading to productivity. At the same time, managers and

leaders dealing with education also appear to be connected to the quality dimension of productivity, which is reflected in the meaning and motivation derived from it among managers and their environment.

The concept of meaning at its core was developed by Prof. Victor Frankel (1947) in his founding book "Man in Search for Meaning" which brought to light the motto "He who knows Why will find the How". It can be said that Frankel actually placed the importance of the consciousness of meaning at the heart of every activity that requires people's motivation and mobilization.

Regarding the energetic dimension of productivity, expressed mainly by executives in senior management status, the explanation may lie in the broad perspective expected of this managerial position or the premise that these managers bring with them more professional and life experience. However, it is important to emphasize the relatively low percentage (only 25%) of the managers who included and addressed characteristics of ambiance, collaboration, organizational added value or the spark of common creativity - characteristics that the study links to an energetic dimension.

Research Innovation: Productivity Diamond



Source: The 70th' Research, Michal Asaf-Kremer

The 'Productivity Diamond' highlights five areas for productivity leading to excellence according to the bases and vertices in the diamond theme: The 'Crown', or the upper base of the diamond is a base of cooperation that consists of two vertices that relate to collaborations between people and groups consisting of different cultural backgrounds (Almog 2016; Benqua 2002) and collaborations between different personality types (Loz 2002); The rightmost vertex refers to resource management and focuses on decision making given sources such as time and energy (Kremer-Asaf 2018; Tetlock 2005; Talb 2009; Kahneman 2009, 2013; Sunstein & Timor 1992; Simon 1992). The leftmost refers to the development of personal and organizational creativity (Robinson 2014; Sharma 2002), as well as the lower base vertex which is called the 'Diamond's spike' that refers to the connection to the meaning and purpose and through that creating long term motivation in the management environment (Frankel 1947).

The model addresses the three aspects that a holistic approach to productivity entails; Functional, Qualitative and Energetic and stresses embedding the required skills needed for its implementation, in order to achieve managerial excellence that will be reflected in managers' success with both people and goals.

In summary, the article is an invitation for managers in this dynamic era of a global and renewable world, which entails many challenges and complexities, to add the required essential aspects in the concept of productivity and to expand the existing perceptions of productivity from

a focus on the partial aspect of functionality that merely refers to time management and output, to a rather more holistic view of productivity. Productivity which leads to excellency.

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