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TABLE OF CONTENTS

Stock Price Informativeness and Profit Warnings: Empirical Analysis <i>Adel Almasarwah</i>	1
On the Collective Moods of Booms and Busts: Socio-Psychological Foundations in External Shock Communication and Social Volatility in the COVID-19 Economic Fallout <i>Julia M. Puaschunder</i>	15
Habits of Mind for Entrepreneurship Education <i>Deon Van Tonder, Adri Du Toit</i>	22
An Exploration of Barriers Female Engineers Face in the Workplace <i>Tyene Houston</i>	32
Discernment Issues in Context of Juvenile Delinquency <i>Nicoleta-Elena Heghes, Cristina-Gabriela Şchiopu</i>	40
Importance of Stakeholders for Balanced Executive Compensation and Shareholder Value Maximization <i>Ivana Marinovic Matovic, Danijela Pavlovic, Jana Cvijic Rodic</i>	46
Jurisprudential Analysis in Matters of Discrimination. Jurisdictional Competence of the National Council for Combating Discrimination <i>Adina Georgeta Ponea</i>	52
Overambition as Disability: Discrimination of Excellence <i>Julia M. Puaschunder</i>	62
Surmounting the Disconnect in Practical Lessons between Curriculum Expectations and Learners' Prior Experiences <i>Adri Du Toit</i>	67
Attitudes, Personality and Organizational Behavior <i>Maria-Daniela Pipaş</i>	76
General Information Regarding Criminality Related to Political Conditions <i>Tiberiu Viorel Popescu</i>	80
Managing Supply Chains in a Post-COVID World <i>John Rocha, Kruti Lehenbauer</i>	84
Exploratory Research of 4IR Impact in Different Areas of Activity <i>Florian Răpan, Ivona Răpan</i>	91
Online Exchanges and Inquiry-based Learning: Implications for Nurturing Learners' Intercultural Communication Skills <i>Murod Ismailov</i>	97
Considerations on the Vices of Consent at the Conclusion of the Civil Legal Act in Romania <i>Cristian Dan</i>	101
Dancing into Dual Leadership <i>Susan Figeac, Kruti Lehenbauer</i>	106

Table of Contents

Criminological and Philosophical Explanations for the Formation of Homicidal Ideation and the Role of Serotonin (5-HT) in Controlling Aggressive Behavior <i>Gabriel Tănăsescu</i>	114
The Great Psychology behind the Marketing Scene <i>Ionuț-Alexandru Horhoge</i>	120
The Impact of Privatized Media on National Development and Programme Quality: A Nigerian Case Study <i>Hadiza Wada</i>	124
Based Proposals for the Elimination of the Quality of a Magistrate held by Romanian Prosecutors <i>Bogdan David</i>	131
Traits of Effective Leaders: A Literature Review <i>Christopher Ardueser, Kruti Lehenbauer</i>	135
General Principles of Legal Devolution Exceptions <i>Adriana Tuluş</i>	144
From <i>Homo Oeconomicus</i> to <i>Homo Praeventicus</i> <i>Julia M. Puaschunder</i>	153
Exploring Cognitive Functions of Demand through the Teachings of Abhidharma <i>Dilshani N Ranawaka, Rushan Ranawaka</i>	159
The Importance of Negotiation in the Public Procurement Process <i>Janetta Sîrbu</i>	163
Demographic Factors and Brand Experience Affecting Sport Brand Advocacy of Consumers in Khon Kaen Province <i>Kritthana Janwattanaphanit, Pensri Jaroenwanit</i>	171
Synthisophy – Integrating the Wisdoms of History into Present Culture (Part II) <i>Andre Houle</i>	177
Ernesto de Martino - Mircea Eliade Contrast <i>Aurelia Săbiescu</i>	187
Dimension of Interfaith Harmony in Albanian Culture <i>Genti Kruja</i>	191
Familicide: Psychological and Social Characteristics of the Aggressors. A Case Study <i>Andrei Armeanu</i>	200
Ethical and Behavioral Standards in Online Communities <i>Kristine Kirst</i>	207

Stock Price Informativeness and Profit Warnings: Empirical Analysis

Adel Almasarwah

*Assistant Professor, Business School at Hashemite University, Jordan
adel_almasarwah@yahoo.ca*

ABSTRACT: This study investigates the nature of association between profit warnings and stock price informativeness in the context of Jordan as an emerging country. The analysis is based on the response of stock price synchronicity to profit warnings percentages that have been published in Jordanian firms throughout the period spanning 2005–2016 in the Amman Stock Exchange. The standard of profit warnings indicators have related negatively to stock price synchronicity in Jordanian firms, meaning that firms with a high portion of profit warnings integrate with more firm-specific information into stock price. Robust regression was used rather than OLS as a parametric test to overcome the variances inflation factor (VIF) and heteroscedasticity issues recognized as having occurred during running the OLS regression; this enabled us to obtain stronger results that fall in line with our prediction that higher profit warning encourages firm investors to collect and process more firm-specific information than common market information.

KEYWORDS: Profit Warnings, Jordanian Firms, Stock Price Informativeness, Synchronicity, Whites Robust Regression

JEL Classification: M41, G14

1. Introduction

Profit warnings are recognized as referring to the announcements made by publicly listed entities prior to the presentation of their formal financial statements with the aim of warning shareholders that their earnings will be in difference to previously expected levels. Profit warnings can be either positive or negative. The current research investigates whether or not there is a reaction between market behavior and profit warnings. This issue has previously faced heated debates from UK and US pioneers.

Attracting investors is deemed to be an important issue for firms seeking to increase their capital in order to extend their investments and dominate the market. This, in turn, has led firms to pay more attention to their stock price. High stock price is more likely to lead to increased investor returns (Penman, 2009). Several prior studies present that the difference in stock price is more noticeable when timed around important news declarations (e.g., Yin, Mazouz, Benamraoui & Saadouni, 2018). In addition, Lui, Markov & Tamayo (2013) find that the organized risk of individual stocks responds disproportionately to the good and bad news included within the predictor reports. Likewise, Zolotoy (2011) debates that the equity value has a habit of increasing (decreasing) following the appearance of good (bad) news, particularly when debt provision directs downwards (upwards). For example, the announcement of optimistic (undesirable) news led to decreases (increases) in the portion of risk for equity investments.

Empirical evidence presented on stock price reaction to profit warnings is restricted to developed markets, such as those of the UK, the US and China. For example, Lui *et al.* (2013) find that stock prices exaggerate with profit warnings, particularly in line with announced negative news (e.g., China reports a significant –3% price drop, over the period of approximately a [–1 to 1] window, and a significant 7.81% increase in stock prices over the period amounting to a [+2 to +60] window in regards negative profit warnings. Accordingly, this study contributes to the prior literature in different ways: first, through studying new emerging markets where the

majority of prior studies have focused their attention to cover developed countries; this, in turn, led to covering the gaps that could arise in the future since our results are consistent with prior literature (e.g., Yin *et al.* 2018; Lui, *et al.* 2013); second, emerging markets have provided empirical results with a similar criteria of developed markets, which allows the researchers to compare the results in developing markets with developed markets. Finally, comparing the empirical results between developing markets and developed markets increases the opportunities of exploring several factors that could potentially affect the results in developing markets in relation to influencing profit warnings on stock prices, such as political and economic circumstances, legal systems, and cultural factors.

In conclusion, this study aims to establish the relationship between profit warnings and stock prices in Jordanian firms throughout the period 2005–2016, which includes 810 firm-years. However, a quantitative approach was adopted in order to explore the association between profit warnings and stock price. Our results show that profit warnings amongst Jordanian firms have a significant negative relationship with stock price synchronicity, meaning that the higher portion of profit warnings is more likely to lead to firm specific information in terms of stock price synchronicity. These results are consistent with prior literature, as can be seen in the works of Kim & Yi (2015) and Yu, Li, Tian & Zhang (2013) in regards firms' financial leverage, equity ratio and industrial type, which show a significant negative effect on stock price synchronicity. On the other hand, return on equity and market-to-book value has a significant positive relationship with stock price synchronicity.

2. Literature Review

In order to understand more specifically about how profit warning is defined, we firstly consider a few definitions from previous literatures. Elayan & Pukthuanthong (2009) define profit warning as a notice released by firms, and it exposes that earnings are lower than expected earnings. According to Skinner (1994), profit warning is recognized as an important tool issued by firm management in order to reduce litigation and reputation costs. Managing profit warning can occur at any time throughout the financial year, particularly before the publishing of an actual profit report, and the management of profit warning might be in several types of accounting terms, such as Earnings Per Share (EPS), sales, and Profit Before Interest and Tax (PBIT) (Elayan *et al.* 2009). Bulkley & Herrerias (2004) define profit warning as an unpredicted firm declaration, where regulatory approaching earnings period could lead to a decrease in the present prospectation. Furthermore, they state that profit warnings are clean information as opposed to the data the firm produces as a decision in order to direct material penalty.

The main justification for the profit warnings phenomena is that the marketplace is under a number of different circumstances, such as economics, political and cultural. Profit warnings are considered to be one of the issues related to earnings surprises, except for the reality of the unanticipated issue associated with similar drift. Furthermore, profit warnings are correlated to earning announcements, including disclosure, where the main difference between profit warnings (PWs) and earnings announcement (EA) is the determination (PW is unexpected and EA is determined) (Kiminda, 2014).

Prior literature categorized profit warning onto two types: first, quantitative warnings, which include obvious numbers and exact approximation profit amount; the second type is qualitative, which is revealed as non-numeric information that expects that profit warnings will occur in the firm in the nearest future (Skinner, 1994). A number of different environments could be better than others when it comes to disclosing financial information. For instance, on the evening of December 4, 2000, 3Com Corp issued a profit warning on the top of a long bull market. The next morning, its share price dropped by almost 30 per cent with an abnormal return of –32.5 per cent. Furthermore, in early-2001, PW issued profit warnings, which led to reduced stock price amounting to 21 per cent, with an abnormal return of –4.7 per cent (Cox *et al.* 2017).

DeStefano (2004) documented that the prior literature has determined that the understanding of bad news has changed over the business cycle, which means that there are differences in profit warnings and their effects on business transactions across each unit.

Jackson & Madura (2003) found that the time period preceding the earnings announcement does not give any indication of profit warnings. On the other hand, they found that share prices seem to change five days before a profit warning, which means that stock price is considered to be the first item in financial statements that is impacted by profit warnings announcements. Several factors were documented in the prior literature that could potentially influence profit warnings. Empirical analyses of Aubert & Louhichi (2015), for example, indicate that firm legal information environment and the index of investors in each country have different impacts on profit warnings announcements; this is rationalised by their study, which they applied to four countries (France, Germany, the Netherlands and the UK) based on a sample of 1,330 profit warnings issued during the period 2000–2010. The firm's legal information environment and investors' index supported the researcher in developing an analytical forecasting model to predict profit warnings.

Chen & Mohan (1994) debate that managers motivate the period of releasing bad news in order to mitigate the negative market response, particularly when managers issue profit warnings. In fact, managers have more information about expected profit in firms than investors; however, managers refuse to announce that there is a profit warnings in case of appearing short in profitability, particularly when it is 3–4 weeks prior to announcing formal earnings, where profit warnings are more likely to be different from one firm to another, and from one point in time to another (Cox, Dayanandan, Donker & Nofsinger 2017).

Announcing profit warnings can lead to negative effects for banking industry conditions, where Jackson & Madura (2004) found that banks experience negative assessment impacts in reaction to their profit warnings, and also document negative impacts on share price in banks before and after the issuance of profit warnings. This, in turn, led to investors relying on more obvious sources of information pertaining to individual banks rather than relying on one bank's warning as indicators for other banks.

In most cases, management prefer to issue profit warnings in times of difficult circumstance that could face firms. Kearns & Whitley (2002) found that profit warnings are headed by decreases in firm profit margins; this is greater amongst firms with negative profits compared with firms with positive profit. Several prior studies related to profit warnings propose that the large portion of negative earnings is produced from announcing bad news that is unexpected and could be avoided through the issuance of incentives from management (e.g., Spohr, 2014; Kothari, Shu & Wysocki, 2009). Accordingly, Xu (2008) states that the announcement of profit warnings is more likely related to reductions in stock prices.

Clare (2001) used the UK data to test whether investors tend to overreact more to negative warnings than to positive ones. In the same regard, in line with the overreaction hypothesis, Tucker (2004) shows that investors react more negatively to firms that warn when they anticipate negative earnings news than to those that do not provide warnings. Moreover, Jackson & Madura (2003) examine stock price behaviour in regards important profit warnings containing negative ones in the US market. The researchers detailed a significant price drop of –21.7% over an 11-day period ending 5 days following the announcement. However, the results show no evidence of reversal after this window of event, and accordingly conclude that the market reaction to negative warnings is not reasonable.

As noticed, the above reference to the UK and US research uses the basic event study and somehow ignores the interaction between shares released information and the variation of stock Betas that are strongly documented within the literature (Lui *et al.* 2009; Savickas 2003; Zolotoy 2011; Cam & Ramiah 2014).

The information content is fundamentally linked to the efficient market hypothesis. Within this hypothesis, particularly the semi-strong form (where share prices are expected to reflect all available accounting information, including the present value of future cash flows), accounting numbers have information content should security prices respond to released data (Wolk *et al.* 2001). Furthermore, Ball & Brown (1968, p. 161) state that ‘an observed revision of stock prices associated with the release of the income report would thus provide evidence that the information reflected in income numbers is useful’.

Thus, financial reporting is intended to provide information to help investors, creditors and other parties to assess the stewardship of the entity’s management and the amounts, timing and uncertainty of prospective cash flows to the related enterprise. The financial information released is considered to have information content if it is useful for economic decision-making and has some impacts on firms’ share prices. Hence, unlike previous research, the current research will use the accounting figures needed in order to investigate the association between performance measures with stock price and stock returns, as published in the financial lists, rather than the use of proxies. The fact should be raised here that it is quite difficult to understand the information content of the accounting figures without considering the characteristics of the reliability and relevancy of such accounting data. Financial information is said to be relevant if it influences the economic decisions of users, which can be achieved by helping them to evaluate past, present and future, which it does if it has predictive or confirmatory value. Relevance and faithful representation are the key characteristics of useful financial information. The faithful representation should be neutral, free from error, and complete (IASB, Conceptual Framework of Financial Reporting, 2011).

Formally, information content, valuation relevance and value relevance are the three main approaches to have emerged in the last three decades for examining the effect of accounting information on financial markets. Lo & Thomas (2000) show that information content has remained constant whilst valuation relevance and value relevance have both declined with respect to return volatility and the non-linearity of the valuation models used (earnings composition model and the earnings expectation model).

Historically, three primary approaches were used to investigate the implication of accounting disclosures for security prices: the first are information content studies (Beaver, 1968); the second, based on Ball & Brown (1968), are the valuation relevance studies; third, based on association testing between prices and accounting measures, are value relevance studies. According to Beaver, an event (announcement or disclosure) has information content if the price changes in excess of the amount due to the passage of time (i.e. expected return) when such an announcement is released. Beaver compares the value of U^2 (the error term) in the announcement period to the value of this function in the non-announcement period, and accordingly concludes that stock return variance is greater in the earnings announcement week.

Regarding value-added relevance studies, and consistent with market efficiency hypothesis, Ball & Brown (1968) assumed that capital markets are both efficient and unbiased in that, if information is useful in forming the capital asset price, the latter will then immediately be adjusted by the market in light of the released information, without leaving any possibility for abnormal gain. Since in the real world the efficient market hypothesis does not operate and many other (weaker) forms, such as semi-strong or weak forms, might do, the findings of this research are undermined.

The focus of the valuation relevance approach (Ball & Brown, 1968) is on one or more specific accounting summary measures. In the Ball & Brown research, it was the earnings, and how these summary measures related to price changes. The summary measures are said to be valuation-relevant if the sign of this measure is positively related to changes in stock price. Following these, researchers used the magnitude of the slope coefficient of a linear regression of returns on net income as a metric of the extent to which earnings are less or more relevant in explaining returns (Collins & Kothari 1989).

The value-relevance approach discusses the association between market value and accounting summary measures, such as earnings and book value. Formally, this approach requires that not only should the summary measure be identified by researchers, but so should the valuation method that links this measure to prices. Under this assumption, a summary measure (performance measure) is said to be value relevant if it connects to market values significantly enough (Holthausen & Watts 2000).

Thus, this study is established to answer several questions: Does profit warning lead to abnormal stock price informativeness throughout the announcement periods amongst Jordanian firms? Is there any association between profit warning types and stock price informativeness in Jordanian firms? Does the firm size relate to the profit warning effect on stock prices across Jordanian firms? To achieve the main aim, this work investigated the association between profit warnings and stock price informativeness, and accordingly tested whether any of the measures examined is able to explain variation in stock price informativeness.

3. Study Designed

3.1. Study Sample

The initial sample consists of 810 firm-years of Jordanian firms listed on the Amman Stock Exchange (ASE), with available data on DataStream databases for the period between 2005 and 2016. Following prior research banking, insurance, and other financial sector firms were excluded from the sample; this was owing to the fact that these sectors have special regulations and financial accounting standards, and the inclusion of these sectors in the sample could potentially distort the research results. Qualitative and quantitative techniques were used to explore the relationship between profit warnings and stock price informativeness in previous studies. This study used a quantitative technique in order to measure profit warnings (Skinner, 1994) since the data available in the Amman stock market meets quantitative requirements. As for qualitative methods, there is no information available, i.e. announcement of potential profit warnings, in the Amman stock market.

3.2. Stock Price Synchronicity

Our measure of stock price informativeness is based on stock price synchronicity. In particular, this study considers the amount of firm-specific stock return variation as an indicator of the amount of firm-specific information that is incorporated into the stock price, thus as an indicator of the informativeness of the stock price. A higher firm-specific stock return variation reflects a lower correlation between stock returns and the market, as well as industry returns, thereby suggesting that stock prices are more likely to reflect firm-specific information (French & Roll, 1986; Roll, 1988); hence, stock prices are less synchronous with market return and industry return.

Each calendar year, the research estimate firm-specific measure of stock return synchronicity through the use of the methodology outlined in the following prior studies (Piotroski & Roulstone, 2004; Gul, Kim *et al.* 2010; Kim & Shi 2012; An & Zhang 2013; Boubaker, Mansali *et al.* 2014). Specifically, for each firm's yearly observation, the model regresses the firm i 's weekly returns on the current week's and prior week's value weighted average market return and the current week's and prior week value weighted average two digit SIC code industry return:

$$RET_{i,w} = \alpha + \beta_1 MKRET_{w1} + \beta_2 MKRET_{w-1} + \beta_3 INDRET_{i,w1} + \beta_4 INDRET_{i,w-1} + \epsilon_{i,w}$$

where:

$RET_{i,w}$ is the weekly return for firm i in week w , $MKRET_w$ is the value-weighted market return for week w , $MKRET_{w-1}$ is the value-weighted market returns for week $w-1$, $INDRET_{i,w}$ is the industry value-weighted return excluding firm i 's weekly return for week w , and $INDRET_{i,w-1}$ is the industry value-weighted return excluding firm i 's weekly return for week $w-1$.

The industry return ($INDRET_{i,w}$) for a specific week for the industry of firm i is created using all the firms with the same two digit SIC code, with firm i 's weekly return omitted. Here ($INDRET_{i,w}$) is the value weighted average of these firms' week w return. To correct for any potential autocorrelation problem, a similar method as that implemented by Piotroski & Roulstone (2004), Kim & Shi (2012a) and Ben-Nasr & Alshwer (2016) was used with the inclusion of the lagged value of weekly market return and weekly industry returns in the regression model. Following Piotroski & Roulstone (2004) and An & Zhang (2013), the model uses weekly returns as opposed to daily returns when calculating stock price synchronicity. An & Zhang (2013) justify the use of weekly return as opposed to daily returns, as an attempt to avoid the problems linked to thinly traded stocks.¹ In addition, the model excludes the firm i 's weekly return when calculating the industry return so as to prevent spurious correlation in industry sectors dominated by few firms (An & Zhang, 2013). Finally, so as to avoid firms that went public, were delisted or which otherwise experienced trading halts, the model follows Piotroski & Roulstone (2004) and excludes those firms whose shares trade for less than 45 weeks over a fiscal year during the sample period.

Since the R-squared value obtained from the above regression model cannot be used as a dependent variable owing to it being bounded between unity and zero and it being highly skewed, this research follows the work of Boubaker, Mansali *et al.* (2014), Kim & Shi (2012) and Piotroski & Roulstone (2004), and further applies a logistic transformation that allows the transformed variable to range from negative infinity to positive infinity. Accordingly, stock price synchronicity can be calculated for each firm in each sample year as follows:

$$SYNCH_{i,t} = \log \left(\frac{R_{i,t}^2}{1 - R_{i,t}^2} \right)$$

where:

$R_{i,t}^2$ is the coefficient of determination from the estimation of Eq (1) for firm i in year t . The log transformation of $R_{i,t}^2$ creates an unbounded continuous variable out of a variable originally bounded by zero and one, yielding a dependent variable with a more normal distribution (Piotroski & Roulstone, 2004).

$SYNCH$ is measured for each firm during each year in the sample. By construction, the high value of $SYNCH$ indicates that individual firms' stock returns tend to co-move more closely with the market and/or the industry return; thus, firm-specific return variation is small. This means that a higher value of $SYNCH$ causes firm stock price movement to be largely explained by the market and industry return, which means that the stock price reflects less firm-specific information relative to market and/or industry common information; hence, stock price is considered to be less informative in regards firms' fundamental value. As a robustness test, the synchronicity is calculated by regressing the firm i 's weekly returns on the current week's value weighted average market return and the current week's value weighted average two digit SIC code industry return

$$RET_{i,w} = \alpha + \beta_1 MKRET_w + \beta_2 INDRET_{i,w} + \epsilon_{i,w}.$$

¹Thinly traded stocks are the stocks that exchanged in low volumes and often have a limited number of interested buyers and seller.

3.3. Analysis and Discussion

Descriptive Statistics and Univariate Analysis

This section discloses the descriptive statistics and univariate analysis findings for our study variables, which measure the association between profit warnings and stock price informativeness in Jordanian firms. Furthermore, the researchers present descriptive measures for the control variables. Table 1 reports the descriptive statistics for the variables used in the empirical model. The mean value of stock price synchronicity is (−1.47)—notably much higher than for the US, the UK and Australia—suggesting that the US, the UK and Canadian markets incorporate more firm specific information into stock price than Jordanian markets. This result is in line with the results of Morck, Yeung *et al.* (2000), which state that stock price in developed countries, with better accounting information, exhibit lower stock price synchronicity than those in less developed countries.

Table 1: Descriptive Statistics and Univariate Test

Model Sample					
Variables	Median	Min	Max	Mean	Standard Deviation
SYNC	-1.68	-4.97	1.28	-1.47	1.09
PWPR	0.00	-368.29	74.19	-0.87	17.14
MTB	0.84	-14.23	500.13	1.71	17.67
ROA	0.24	-195.30	84.07	0.16	12.35
ROE	0.00	-34544.15	8002.76	-32.28	1247.74
DR	26.15	0.00	227.53	29.63	27.41
ER	60.44	-127.53	99.60	51.69	34.05
IND	132.00	0.00	242.00	119.61	53.15

SYNC is Stock Price Synchronicity, PWPR is Profit Warnings Percentage, MTB is Market to Book Value, ROA is Return on Assets, ROE is Return on Equity, DR is Debt Ratio, ER is Equity Ratio, and IND is Industrial Type.

Correlation Matrix

Table 2 presents the Pearson correlations between the variables included in our regressions. Several key relations are present: first, there is negative correlation between stock price synchronicity and profit warnings, where such a negative correlation adoption provides an initial indication that profit warnings encourage investors to collect and process firm-specific information, leading to more informative stock price. In this regard, MTB, ROA, DR, ER, display negative correlation with stock price synchronicity, suggesting that firms with higher growth opportunities, higher profitability and higher leverage tend to have more informative stock price. Chun, Kim *et al.* (2008) argue that high-growth opportunity may be related to high firm-specific return variation owing to the fact that firms with high-growth opportunities have high intrinsic risk factors. Beuselinck, Joos *et al.* (2010) expect a negative relationship between stock price synchronicity and a firm's financial leverage ratio, suggesting that firms with high financial leverage have higher intrinsic risk factors, which may enforce investors to collect firm-specific information. ROE shows positive correlation with synchronicity. We generally report low correlation coefficients between stock price synchronicity and our control variables, mitigating concerns that multicollinearity could affect our regression results.

Table 2: Pearson Correlation for Firms in the Model Sample

	SYNC	PWPR	MTB	ROA	ROE	DR	ER	IND
SYNC	1.000							
PWPR	-0.017	1.000						
MTB	-0.019	-0.001	1.000					
ROA	-0.034	-0.001	-0.133	1.000				
ROE	0.018	-0.002	- 0.969***	0.134	1.000			
DR	- 0.133* *	-0.023	0.101**	-0.230**	-0.065	1.000		
ER	- 0.397* *	-0.007	-0.028	0.193	0.038	- 0.217* *	1.000	
IND	- 0.259* *	-0.028	0.017	0.014	0.000	0.080	0.311* *	1.000

SYNC is Stock Price Synchronicity, PWPR is Profit Warnings Percentage, MTB is Market to Book Value, ROA is Return on Assets, ROE is Return on Equity, DR is Debt Ratio, ER is Equity Ratio, and IND is Industrial Type.

Notes: indicate significant at *** 0.001, ** 0.05, * 0.10

Variance Inflation Factor (VIF), Tolerance (1/VIF) Tests and Heteroskedasticity Test

In this section, we present and discuss the results of variances inflation factor (VIF) and tolerance results. Prior literature documented that ‘if VIF test is less than 10 and tolerance test is more than 0.2 that means there is no multi-collinearity’ (e.g., Hair, Black, Babin & Anderson, 2010; Rahman & Ali, 2006; Graham, 2003). Table 3 shows that market-to-book value (MTB) and return on equity (ROE) variables have values of VIF greater than 10, and tolerance values less than 0.2, meaning that collinearity is an issue in this research.

Table 3: VIF and Tolerance Results for Model Sample

Variable	VIF	Tolerance
MTB	16.670	0.060
ROE	16.600	0.060
ER	1.210	0.824
DR	1.150	0.871
IND	1.140	0.879
ROA	1.100	0.912
PWPR	1.000	0.999
Mean VIF	5.5	

Heteroscedasticity means that the variances of random errors in ordinary least square regression (OLS) are inconsistent (Kaufman 2013). Consequently, the heteroscedasticity problem likelihood occurs when the magnitude of the residuals seems to be correlated to independent variable value. Non-parametric tests, such as white robust regression, fixed effect regression and generalised least square regression (GLS), are all recognised as alternative ways to solve the heteroscedasticity problem (Kaufman 2013; Hair *et al.* 2010).

In this section, the Breusch-Pagan/Cook-Weisberg test was applied in order to determine whether the dataset of this research has been impacted by the heteroscedasticity problem. Table 4 shows that the model sample has been affected from heteroscedasticity since the chi2 value is (17.06) and they are significant at the (0.008) level, meaning that we have to reject the null hypothesis that states ‘all variances of random errors in OLS regression for model sample is constant’ and accepted the alternative hypothesis that stated ‘there is inconstant in variances of random errors in all model’.

Table 4: Heteroskedasticity Results

Breusch-Pagan / Cook-Weisberg test for	
Ho: Constant variance	
Variables: fitted values of V	
Chi²(1)	17.06
Prob > chi²	0.008

Based on the aforementioned results in tables 3 and 4, which have presented a real problem in terms of existing multi-collinearity and heteroscedasticity problems, this research used white robust regression rather than OLS regression (see Appendix 1 for OLS regression results).

White Robust Regression

Firms’ financial leverage (DR) shows a significant negative effect on stock price synchronicity with p-value < 0.001. Hutton, Marcus *et al.* (2009) suggest that firms’ financial leverage is expected to have an effect on stock price synchronicity through its impacts on the sensitivity of firms’ return to macroeconomic conditions and because it influences the division of risk-bearing between equity shareholders and debtors. Moreover, Beuselinck & Joos *et al.* (2010) expect a positive relation between firm-specific return variation and firms’ financial leverage ratio, suggesting that firms with high financial leverage have high intrinsic risk factors that could potentially enforce investors to collect firm-specific information. Accordingly, these results support the previous argument. The negative effect of (DR) on stock price synchronicity (SYNCH1) is in line with the findings of Kim & Yi (2015), Yu, Li *et al.* (2013), Kim & Shi (2012) and Gul & Srinidhi *et al.* (2011), who document a negative effect of firms’ financial leverage on firm stock price synchronicity. These results support the view that data for firms with high financial leverage is more valuable for the reason that investors try to collect, process and trade on this information, leading to higher firm-specific return variation for high leveraged firms.

Market to book ratio (MTB), which is used to measure firms’ growth opportunities, records positive effect on stock price synchronicity. Hutton, Marcus *et al.* (2009) argue that the market-to-book ratio places firms along a growth-versus-value spectrum and thus could be systematically related to firm-specific return variation. Consistent with the findings of An & Zhang (2013) and Yu, Li *et al.* (2013), the estimated coefficient of (MTB) is significantly positive. This result suggests that firms with high growth opportunities tend to have a more synchronous stock price.

Firms’ performance and profitability, as measured by the ratio of net income to total equity (ROE). is expected to have an effect on stock price synchronicity. Ben-Nasr & Cosset (2014) and

Gul, Srinidhi *et al.* (2011) expect a positive relationship between return on assets and stock price synchronicity, indicating that more profitable firms tend to have less informative stock price.

PWPR shows a significant negative effect on stock price synchronicity. This means that firms with higher profit warnings incorporate more firm-specific information into stock price. This result is in line with our prediction that higher profit warning will encourage firm investors to collect and process more firm-specific information than common market information. Previous research supports this assumption (Ferreira & Laux, 2007) mention that accounting information is a central component of information flow to the market. Biddle, Seow *et al.* (1995), Francis, Schipper *et al.* (2003) and Liu, Nissim *et al.* (2002) also document that investors depend on earnings numbers in their decisions more so than any other measure of performance. In addition, Francis, LaFond *et al.* (2004) assert that earnings numbers are an importance source of firm-specific information. Furthermore, Cox, Dayanandan *et al.* (2017) find that profit warnings are associated with abnormal return during the course of the announcement day, meaning that the investor uses this firm-specific information in their investment decisions.

Table 5: White Robust Regression for Model Sample

	ROA	
	Coef.	t
PWPR	-0.002	-2.08**
MTB	0.012	3.85***
ROA	-0.001	-0.24
ROE	0.000	4.32***
DR	-0.009	-6.70***
ER	-0.013	-12.09***
IND	-0.002	-3.68****
T-statistics	64.15***	
R²	22.35%	

White Robust Regression under Corporate Governance Characteristics as Moderate Variable

In this section, the researchers went further to test the impact of corporate governance characteristics on the relationship between stock price informativeness and profit warnings. Prior literature document that strong corporate governance characteristics is positively related to announcing good earnings news in the near future. In this regard, Karamanou & Vafeas (2015) investigate the ways that could potentially lead a Board of Directors and audit committee characteristics to affect the level of voluntary financial disclosure practices, where earnings forecasts are used as a proxy. Their empirical results documented that firms with a stronger Board and audit committee characteristics are more likely related to good updates, which, in turn, leads to increased opportunities for attracting more investors.

According to the theoretical notion of agency costs developed by Jensen & Meckling (1976), Jensen (2005) studied the way in which firm government quality and its decisions could relate to the issue of profit warning, particularly when overestimated. In this regard, and based on a sample of Canadian firms reviewed during the period 2000–2004, Jensen (2005) presents results that partially support this hypothesis. For example, factors pertaining to Board of Directors, such as Board size, Board insiders and outsiders, and Board independence, are more likely to affect the decision to issue a profit warning when the firm is overestimated.

Alternatively, other governance mechanisms, such as ownership structure, are negatively related to the profit-warning pronouncement.

Accordingly, we extracted new independent variables by multiplying an independent variable (PWPR) with some Board of Directors characteristics (Board size, Board outsiders and Board insiders), and audit committee characteristics (audit committee size, audit committee meeting and audit committee expertise). Six new variables have been established, namely profit warnings and board size (PWBSIZE), profit warnings and board outsider (PWOUTS), profit warnings and board insider (PWBINS), profit warnings and audit committee size (PWACSIZE), profit warnings and audit committee meeting (PWACMEET), and profit warnings and audit committee expertise (PWACEXP). These variables calculated as through equations (1 to 6):

$$PWBSIZE = PWPR * Board Size \dots\dots\dots (1)$$

$$PWBINS = PWPR * Board Insider \dots\dots\dots (2)$$

$$PWOUTS = PWPR * Board Outsider \dots\dots\dots (3)$$

$$PWACSIZE = PWPR * Audit Committee Size \dots\dots\dots (4)$$

$$PWACMEET = PWPR * Audit Committee Meeting \dots\dots\dots (5)$$

$$PWACEXP = PWPR * Audit Committee Expertise \dots\dots\dots (6)$$

However, OLS regression still has VIF and Heteroskedasticity problems, even following the addition of extracting new independent variables. Therefore, white's robust regression was used in this section to overcome these two problems. Our results show improvement in the relationship between main profit warnings and stock price informativeness, since Table 5 shows (-2.08) at the 1% level and Table 6 after adding corporate governance characteristics shows (-2.15). These results are consistent with prior studies (Karamanou & Vafeas, 2015; Ferreira & Laux, 2007).

In our case, OLS estimates are unbiased and consistent, but nonetheless inefficient. In addition, OLS has a habit of underestimating the parameter standard errors, which, in turn, affect the association between profit warnings through the use of corporate governance characteristics as moderate variables. Consequently, the white robust regression is proposed to generate a most favourable unbiased estimator of β for satiations with Heteroskedasticity variance and to ensure that the association between variables is efficient (Carroll, 2017). Accordingly, this study has adopted a non-parametric test (whites robust regression) as a multivariate test technique to explore the influence of corporate governance characteristics on the relationship between stock price informativeness and profit warnings in Jordanian firms as opposed to parametric test (OLS regression), where most OLS regression assumptions do not meet the study dataset (see Appendix 2).

Our findings, as detailed in Table 6, are partially consistent with Jensen (2015), where we found that Board insiders, Board outsiders, audit committee size and audit committee expertise are all positively influential in the relationship between profit warnings and stock price informativeness in Jordanian firms. On the other hand, Board size and audit committee have a negative impact on the relationship between profit warnings and stock price infromativeness. These results are not consistent with prior literature, such as those by Cox *et al.* (2017), Jensen (2015) and Francis *et al.* (2004). These results could refer to several reasons: corporate governance code differences, cultural factors, political and economic circumstances. Finally, our empirical evidence is approximately consistent with the notion that effective corporate governance impacts the relationship between stock price and profit warnings.

Table 6: White Robust Regression for Model Sample

	ROA	
	Coef.	t
PWPR	-0.002	-2.15**
PWBSIZE	-0.855	-4.06***
PWBINS	0.819	3.92***
PWOUTS	0.774	3.77***
PWACSIZE	0.158	2.43**
PWACMEET	-0.156	-3.06***
PWACEXP	0.212	1.85*
MTB	0.010	3.18***
ROA	-0.001	-0.29
ROE	0.000	3.77***
DR	-0.008	-5.77***
ER	-0.012	-11.06***
IND	-0.003	-4.32***
T-statistics	42.47***	
R²	26.49%	

4. Conclusion

In this study, we examined the effect of profits warnings announcement on the amount of firm-specific information incorporated into stock price, as inversely measured by stock informativeness. Profit warnings referred to the announcements made by publicly listed companies, prior to the presentation of their formal financial statements, to warn users of their financial data, to communicate that their earnings would be different to previously expected levels. Profit warnings can be either positive or negative. We expect a positive effect of profit warnings on stock price informativeness. As prior research suggests, a possible link between profit warnings and the informativeness of stock price can be seen, where Cox, Dayanandan *et al.* (2017) find that firms' profit warnings are associated with abnormal return during announcement days, suggesting that investors use this firm-specific information in their investment decisions. Consistent with our prediction, the results show a significant positive effect of profit warnings on the amount of firm-specific information incorporated into stock price.

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Appendices

Appendix (1) OLS Regression Results for the Model Sample

	Coef.	t	P>t
PWPR	0.00	-0.89	
MTB	0.01	1.59	
ROA	0.00	-0.20	
ROE	0.00	1.70	*
DR	-0.01	-6.63	***
ER	-0.01	-11.96	***
IND	0.00	-3.54	***
Adj R²	22.35%		
Adj R² Adj	21.67%		
T statistics	32.97***		
Prob. t	0.000		
<i>SYNC is Stock Price Synchronicity, PWPR is Profit Warnings Percentage, MTB is Market to Book Value, ROA is Return on Assets, ROE is Return on Equity, DR is Debt Ratio, ER is Equity Ratio, and IND is Industrial Type.</i>			

Notes: indicate significant at *** 0.001, ** 0.05, * 0.10

Appendix (2) OLS Regression Results for the Model Sample with Corporate Governance

	ROA	
	Coef.	t
PWPR	-0.002	-0.99
PWBSIZE	-0.855	-4.13***
PWBINS	0.819	4.00***
PWOUTS	0.774	3.84***
PWACSIZE	0.158	2.39**
PWACMEET	-0.156	-3.11***
PWACEXP	0.212	1.82*
MTB	0.010	1.24
ROA	-0.001	-0.25
ROE	0.000	1.38
DR	-0.008	-5.90***
ER	-0.012	-11.30***
IND	-0.003	-4.140***
T-statistics	22.07***	
R²	26.49%	
Adj. R²	25.29	

On the Collective Moods of Booms and Busts: Socio-Psychological Foundations in External Shock Communication and Social Volatility in the COVID-19 Economic Fallout

Julia M. Puaschunder^{1,2}

¹*The New School, Parsons School of Design, Department of Economics, 6 East 16th Street, 9th floor 89, New York, NY 10003, USA, Julia.Puaschunder@newschool.edu, T 001 212 229 5700, F 001 212 229 5724, www.juliampuaschunder.com*

²*Columbia University, Graduate School of Arts and Sciences, Julia.Puaschunder@columbia.edu, http://blogs.cuit.columbia.edu/jmp2265*

ABSTRACT: The currently ongoing novel Coronavirus-crisis is an external shock coming down on society with direct impact on societal moods and subsequently connected economic changes. With growing digitalization and quickening of transfer speed, information exchange in the individual involvement to break trends online on a global scale may impose unknown systemic risks in causing social volatility in international economics. Research may explore how human beings' communication and interaction results in socially constructed volatility that echoes in economic correlates. This paper proposes to explore the role of communication and temporal foci in pandemic communication to create social volatility underlying economic downturns with attention to international differences. Comparing the economic consequence of the endogenous crunch of the 2008 World Financial Recession with the external economic shock of the COVID-19 pandemic could aid to retrieve crisis-specific recovery recommendations. Understanding how the social compound forms economic outcomes promises to explain how market outcomes are developed in society and can be shaped by strategic communication with special attention to new media technologies.

KEYWORDS: Collective moods, Communication, Coronavirus, COVID-19, Digitalization, Economic fundamentals, External shock, Information, Lockdown, News, Pandemic, Social volatility, Socio-Economics, Socio-Psychological Foundations, 2008/09 World Financial Crisis

Introduction

Globalization led to an intricate set of interactions between individuals, organizations and states (Centeno et al. 2013). Unprecedented global interaction possibilities have made communication more complex than ever before as the whole has different properties than the sum of its increasing diversified, global and instantly offered information parts. In the recent decade, data transfer and exchange online to create news increased qualitatively and quantitatively (Puaschunder 2017b, c). The reaping of surplus value from big data analyses and targeted online advertisement skyrocketed (Puaschunder 2017a, d). With growing digitalization and quickening of transfer speed, information exchange in the individual involvement to break trends online on a global scale may impose unknown systemic risks in causing social volatility in international economics (Puaschunder 2019).

In a socially-distanced COVID-19 world, we have become virtually closer and digitally more connected than ever before. But today's digital collective interaction effects may at the same time lead to hard-to-foreseeable fallacy of composition downfalls. Emergent risks in emotional reactions to information and collective moods triggered by online media news races appear to imbue social volatility into global economic systems (Centeno et al. 2013). The indexal flow of time created in constant instant communication online now is faster than ever before due to constantly overlapping contents and that are formed truly global. Online communication also appears to feature less accuracy checks than previous media forms. Governments seem to have lost their privilege of censorship control, which adds complexity and vulnerability to the building

of a collective soul of booms and busts in the digital age (Puaschunder forthcoming). In all these features of the nature of online communication, new technology advancements may hold public reactions that may underlie the upswing or downturn of crisis dynamics.

In the light of growing data transfer and internet connectivity globalization, the demand for an in-depth understanding of how information echoes in socio-economic correlates gained unprecedented momentum. Social psychology may aid in explaining how social pressures materialize in economic fallouts. The proposed paper will draw on socio-psychological foundations to explain the collective reaction to the current technical communication about economic dynamics. Media information may cause collective moods fueled by redundant and self-reinforcing processes that lack control or censorship in the digital space. Collective moods – in particular anxiety, fear and Angst but also euphoria and hysteresis – may play fundamental roles in consumer-spending and investment decisions. Forward-looking as one is always thinking ahead of oneself or ruminating in fear over the past may shape our economics of choice.

While we have information on the economic fundamentals and physical environment's impact on choices, the role of media information shaping people's economic outlook is missing. Media-driven information races may steer emotions and collective moods that cause systemic behavioral interpretation of an uncertain future that may lead to delayed consumption and spending decisions of individuals, households and firms further exacerbating in collective governmental investment and spending preferences. All these socio-economic impacts of affects and mass communication potentially underlying economic cycles, however, have hardly been described or empirically validated before.

In seeking to shed light on communication causing implicit system failures but also the potential socio-economic consequences of cumulative moods triggering mass movements that cause economic turmoil; the proposed research strives to uncover unexpected dangers and insufficiently described shadows of the invisible hand. The project will focus on behavioral-social psychology aspects of financial crises and economic meltdowns. Most timely capturing the currently ongoing novel Coronavirus pandemic's contemporary *Zeitgeist*, the project will also address digital technologies' role in the representation and transmission of information creating social volatility. In explaining how communication during times of crises shapes economic fallouts, information transfer's unique impetus in the digital age will be unraveled in order to elucidate how strategic communication can serve as a novel and easily-implementable nudging economic stabilizer.

Theory

The theoretical part makes the case of a narrow technical focus on economic fundamentals and mathematical formalizations in classic economic to explain the mechanisms causing economic cycles missing out on the socio-psychological and behavioral group aspects of collective over- and underreaction in markets. While some information on euphoria is found in the animal spirits and behavioral finance literature describing overconfidence in markets leading to an overvaluation of assets, overleveraging and underestimation of risk; hardly any empirical studies explain collective panics from a socio-economic or social psychology angle.

The 2008/09 World Financial Recession offered some data on the collective souls of economic crunches, yet the crisis emerged as inherent feature in capitalism with the banking sector downfalls becoming the endogenous crunch factor. But how external influences can come down on society and materialize in an exogenous shock with drastic fallouts in the real economy due to new media coverage, we hardly have any economic model or empirical validation for. No data existed prior to COVID-19 that was so rich in terms of instant communication, global interconnectivity and computational power to make sense of unprecedentedly big data capacity generated instantaneously and globally. At the same time, the constant informational bombardment of multi-faceted new media tools requires to conserve the fluidly growing 'now'-

driven information overload immediately (Center for Disease Control and Prevention 2020; International Monetary Fund 2020; Sachs et al. 2020; United Nations 2020a, b).

The proposed project aims at innovatively painting a novel picture of the mass psychological underpinnings of business cycles based on information flows with particular attention to digital communication. Addressing problems of the neoclassical assumption of perfect information markets through the lens of real competition, the proposed paper will specifically unravel how contemporary media communication produces certain types of expectations that form collective moods and how these change consumption patterns result in systemic global economic outcomes. After a thorough literature review on financial market theory with special attention to heterodox viewpoints, the history of economic cycles theories will lead to the analysis of the role of information in creating economic booms and busts. The concept of social volatility will be introduced and depicted in light of COVID-19. Social volatility adds to quantitative volatility any social aspects that influence and shape economic markets offering an innovative way to explain how and what information represented in the media creates economic ups and downs.

Attention will be paid to the concept of time and how temporal prospects elicited in mass media shape individual decision-making. Contrary to standard neoclassical ideas of time in discounting, a behavioral economic approach will be applied dividing time in past, present and future prospects. Present as the moment of ‘now’ attention will be captured to be highly fluid as for constantly being melted into the past by its future dependent on the past. This fungibility of dependent moments add temporal volatility. The highly fickle ‘now’ present moment unmasked as a slippery reference point will be addressed in the theory of subjectivity and reflected upon behavioral economics’ hyperbolic discounting present bias. Media fetishizing breaking news waves of concurrently presented similar information missing out on diversification potential but also the crucial role of the media in perpetuating human present biases will be thematized. The media’s untapped potential in setting potentially favorable or unfavorable anchors and building unknown economic choice architectures will be introduced.

As for social volatility, fat tail phenomena and robustness literature will be coupled by social systems’ ideas. Affect Theory, Believes and Desires Theory will become the theoretical backbone to describe fallible likelihood estimations when the pains and joys over markets are felt collectively and social volatility waves break. How integrating indexicality, modality and subjectivity is related to intentionality will be explored. Reference point dependence on age and the ‘now’ will be investigated in light of Prospect theory to see how losses and gains represented in the past or future may lead to biased decision-making patterns. The present bias potentially overinflating social volatility risks based on emotionality will be thematized.

Empirics

Empirically, the current COVID-19 pandemic serves as an external shock coming down on society with direct impact on societal moods and subsequently connected economic changes (Puaschunder & Beerbaum 2020; Puaschunder, Gelter & Sharma 2020). Four studies will explore the role of communication and temporal foci in news (Study 1) to create social volatility underlying economic downturns (Study 2) with attention to international differences (Study 3). The economic consequence of the endogenous crunch of the 2008 World Financial Recession will be compared to the external economic shock of the COVID-19 pandemic in order to retrieve crisis-specific recovery recommendations (Study 4).

Study 1: Exploration of social volatility and temporal foci as accelerators of economic meltdowns: A qualitative case study will scrutinize what socio-psychological mechanisms potentially accelerate economic meltdowns with attention to collective moods to shape the daily choices and present behavior. The role of temporal foci will be explored – whether it makes a difference if media attention focuses on the past, present or future. Country differences of novel communication techniques will elucidate varieties of digitalization around the world.

Empirically, different communication strategies will be qualitatively analyzed. Social Representations Theory and the Core-and-Periphery Analysis content analysis based on word count but also viral online content shares will serve to categorize various approaches to introduce the external pandemic shock. Methodologically, linguistic text analyses of news reports about the societal situation and the economy aim at depicting how media representations echo in economic correlates measured by the CBOE Volatility Index retrieved online.

The qualitative exploration targets at showing economic cycles' natural complexity influenced by socio-historic trends and their media representation. Addressing the different uses of the internet and modern communication tools around the global but also understanding how temporal foci and emotional prospects can shape collective moods offers to detect concrete media strategies and communication contents that stabilize economies during external shocks.

Study 2: Temporal volatility and framing online experiment: A behavioral economics experiment will backtest the findings of the Study 1 exploration in an Amazon Mechanical Turk (AMTURK) online survey enabled via Qualtrics. A 240 subjects-strong sample from around the world tested in a controlled online survey setting will elucidate how temporal or emotional information anchors elicit affective ebbs and flows that influences choices. The role of the media in cultivating human present biases or setting an anchor of favorable and unfavorable time prospects but also using discounting theory with attention to loss aversion will be investigated. Different emotional cues will prime individuals into different affects and temporal perspectives to then decide on fictitious consumption and investment options and providing demographic information (age, gender):

- (1) **present** bias: subjects receive '**now**' present information (Test group 1),
- (2) **future** bias: subjects receive either *positive* (Test group 2.1), *negative* (Test group 2.2) or *neutral* (Test group 2.3) information about the '**future**,'
- (3) **past** bias: subjects receive either *positive* (Test group 3.1), *negative* (Test group 3.2) or *neutral* (Test group 3.3) information about the '**past**.'
- (4) control group with no information making fictitious consumption and investment choices.

Hypothesis 1 tests if '*now*' eliciting media information increases the present bias. *Hypothesis 2* clarifies if *positive* information triggers more consumption and investment in the domains of culture, economics, education, environment, foreign aid and infrastructure than *negative* information. *Hypothesis 3* investigates if '*future*' information triggers more consumption and investment in the domains of culture, economics, education, environment, foreign aid and infrastructure than '*past*' information. *Hypothesis 4* investigates if positive or negative emotions or forward-looking or past-ruminating temporal foci lead to a delay in consumption and investment in the domains of culture, economics, education, environment, foreign aid and infrastructure. *Hypothesis 5* captures age dependent discounting preferences as alternative reference point.

Study 3: Country differences in social volatility and digitalization differences: A quantitative cross-sectional study will compare country differences in COVID-19 pandemic communication strategies' impact on economic performance while controlling for the lockdown strategy and infected population with the government as moderator variables. Data on online communication of the G-20 on COVID-19 will be retrieved from the Federal Reserve Banks of St. Louis and Kansas and Worldometer. Lockdown strategy categorizations will be meta-categorized and the quality of the category system quantified by Cohen's Kappa as an interrater-reliability test. Communication will be rated on being *positive*, *negative*, *neutral* based on Polarity indices and having a *past*, *present* or *future-oriented* outlook based on Hofstede's cultural future-oriented versus past-tradition oriented indicators. Infected population per inhabitants are retrieved from the Worldometer Coronavirus homepage. Economic performance measured by Gross Domestic Product (GDP) growth percentage changes and GDP per capita is available at the International Monetary Fund (IMF), Worldbank (WB) and Macrobond homepages. Methodologically, regressions will compare and contrast between the country clusters' pandemic communication strategies' in relation to economic correlates. Attention to

digitalization differences is operationalized by the online-documented *Global Connectivity Index* and *The State of the Mobile Internet Connectivity Index* and the *NASDAQ Yewno Global Artificial Intelligence and Big Data Index* measuring international market growth in the digital domain.

Overall, communication influences on market expectations and performance shaping economic cycles will reveal information contents that either cause social volatility bleeding into economic downturns or serve as crowd control stabilizers.

Study 4: Endogenous versus exogenous shock regrowth recovery: Economic time episodes studies will compare economic fundamentals based on financial stress test indicators. Time window t_1 from 2006 to 2011 covers the 2008/09 World Financial Recession economic fallout and subsequent recovery. Similarity to time window t_2 ranging from 2017 until shortly before the COVID-19 pandemic outbreak will be calculated with Pearson’s correlations for each time sequence of measurement interval. Evidence of economic fluctuations will reveal the inherently unstable character of markets. Time window t_3 will capture the period from the novel Coronavirus pandemic outbreak. Overlaying the two windows t_1 and t_3 for each time sequence of measurement interval within the windows will differentiate between capitalism-inherent crisis captured in t_1 and the currently exogenous shock recovery t_3 period recovery strategies. Differentiating between two timely-close (almost all else held equal condition) but systemically-differing (internal capitalism failure vs. external shock fallout) causes of economic crises will have invaluable implications for the nature of capitalism, endogenous and exogenous growth and economic cycle theories in order to retrieve strategic recovery recommendations. Attention will also be paid to contemporary digitalization trends.

As for the operationalization of *Study 4*, find the economic crises indicators in Table 1.

Table 1: Economic and financial crises predictions¹

Growth	Monetary policy	Commodities	Trade	Financial Soundness
GDP	Consumer price index	Gold	Trade weighted US dollar index	Financial Soundness Indicator
Employment	Purchasing Managers Index	Commodity	Trade in goods and services as % of GDP	Interbank Spread
	Interest Rate		FDI inflows as % of GDP	Corporate Bond Yield
				12-month rolling Beta of Bank Stock Index
				Monthly stock returns
				Inverted term spread
				Six month rolling monthly squared change in REER

Table 1 holds the macroeconomic financial crisis indicators to be compared in a time warp method. First, a set of crisis indicators will be retrieved online for the time windows t_1 (covering years 2006 to 2011), t_2 (years 2017-2019) and t_3 (beginning 2020 until the last data point available). A time warp based similarity index will be based on Pearson’s correlations. For each time window and each time period, a correlation of the overlap between the timelines of t_1 and t_2 as well as t_1 and t_3 will be calculated. The timeline will comprise of percentage changes of the current period in relation to the previous period based on equation 1 calculus:

$$\text{Percentage changes} = \left(\frac{((t+1)-t)}{t} \right) * 100 \tag{Equation 1}$$

In case of significant positive correlations, a similarity will be assumed between the time windows in the respective macroeconomic crises variable. The retrieved positively significant correlations will then be integrated into a crisis time warp overlap similarity index. All time

¹ Economic growth is measured in *GDP*, the *Consumer Price Index* and the *Interest Rate* as well as the *Trade weighted US dollar index* by the Federal Reserve Bank of St. Louis homepage. The *Purchasing Managers Index* is retrieved online. *Gold* and *Commodity* prices are found in Index Mundi. *Trade in goods and services as percentage of GDP* is available on the OECD homepage. Trade depicted in *FDI inflows as percent of GDP* is provided by the WB. The *Financial Soundness Indicator*, *Interbank spread*, *Corporate Bond Yields* and *12-months rolling Beta of monthly stock returns*, *Monthly stock returns*, *Inverted term spread* and *6-month rolling monthly squared change in REER* are found in an IMF database.

periods with positively significant correlations then will become the basis for a Time Warp Similarity Index (TWSI) based on the following equation 2:

$$TWSI = (1 - p) * (1 - (\frac{t-12}{12})), \quad (\text{Equation 2})$$

whereby p denotes the p-value of all significant time warp similarities based on Pearson's correlations and t the time of missing data in months up until the end of the data. The means for all overlapping similarity time windows will be derived in order to avoid double counts.

Discussion

Overall, the research will acknowledge that human beings' communication and interaction results in socially constructed volatility that echoes in economic correlates. Understanding how the social compound forms economic outcomes promises to explain how market outcomes are developed in society and can be shaped by strategic communication with special attention to new media technologies.

The discussion will highlight the uniqueness and differences of the 2019 COVID pandemic economic fallout from the 2008/09 World Financial Recession. While the previous recession was inherent in the system of capitalism and largely played out in financial constraints affecting almost all industries, the novel 2019 COVID pandemic imposes an external shock that was fueled by communication and interaction, which differed throughout the world. The currently ongoing market communication about the pandemic serves as historic trace, whose conservation offers important insights about how the socio-psychological interpretation of an external shock echoes in economic fundamentals. The discussion will also target at highlighting winning and losing industries only to follow the mandate to find creative strategies how to redistribute the gains of the crisis in order to offset the economic fallout losses in proposed inequality alleviation strategies. The final remarks will also discuss the contemporary divide between economic fundamentals, financial market performance versus the real economy fallout.

Implications will stress how communication can counterweight and alleviate the building of collective moods bleeding into disastrous mass movements causing turmoil in financial market and steering economic fallouts with negative implications for societies' weakest segments. Recommendations how to build stable economic systems by avoiding emergent risks and communicating market prospects favorably may help building the fundamental architecture of future more stable markets to be crafted by heterodox economists and off-mainstream public policy experts. A prospective future research outlook and implications will be offered aimed at improving the economic future of healthcare, workforce, city planning and education based on strategic communication and emotional assets but also favorable time prospects in our post-COVID-19 world to come.

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Habits of Mind for Entrepreneurship Education

Deon Van Tonder¹, Adri Du Toit²

¹*Dr Deon Van Tonder Faculty of Education, North-West University, South Africa, Deon.VanTonder@nwu.ac.za*

²*Dr Adri Du Toit Faculty of Education, North-West University, South Africa, Dutoit.Adri@nwu.ac.za*

ABSTRACT: Entrepreneurship education is vital to ameliorate the high youth unemployment rate in South Africa. As part of efforts to augment entrepreneurship education, purposeful teacher training is needed. Integral in this pursuit is the amendment and development of teachers' entrepreneurial mindset. The concept of 'mindset' is, however, ambiguous, as literature uses this term interchangeably with concepts such as 21st century skills, soft skills, non-cognitive skills, or character strengths. When a new teacher training program for entrepreneurship education was being developed, it was necessary to investigate and analyze all these skills or characteristics, to ascertain which aspects should be included in the program to contribute to the entrepreneurial mindset that was envisioned for these teachers. An exploratory qualitative literature review was conducted from a constructivist point of view. Accessible literature on 'entrepreneurship education' and 'entrepreneurial mindset' was systematically and thematically analyzed to explore the contribution of various types of skills and characteristics to the construction of an entrepreneurial mindset, in preparation for entrepreneurship education. The findings revealed that several skills, characteristics and habits contribute to the development of positive entrepreneurial mindsets. These included several references to the 'Habits of Mind' proposed by Costa and Kallick (2008). Subsequent comprehensive analysis was conducted to explore the pertinence of the Habits of Mind for developing teachers' entrepreneurial mindsets as part of their preparation to facilitate entrepreneurship education. A recommendation was made for the inclusion of all the Habits of Mind to contribute to fostering positive entrepreneurial mindsets as part of teacher training for entrepreneurship education.

KEYWORDS: 21st century skills, entrepreneurial mindset, entrepreneurship education, habits of mind, teacher training

Background and problem statement

Youth unemployment is a growing concern globally, but especially in South Africa, where the youth unemployment rate escalated to 59 percent in the first quarter of 2020 (Trading Economics 2020). The potential of entrepreneurship education to ameliorate the high unemployment levels in this country is thus clear. At present, entrepreneurship education in the curriculum used in South African schools is limited (Du Toit and Kempen 2018), which prompted the Department of Basic Education to compile a blueprint for expanding entrepreneurship education to amend this gap (Department of Basic Education [DBE] 2016). The 'Blueprint for Entrepreneurship Education' document includes four key recommendations to bridge the current gap (DBE 2016, 9), the third of which recommends training teachers – both pre-service and in-service – with the explicit purpose of enabling them to develop their learners' entrepreneurship education effectively.

At one of the foremost universities in South Africa, a few detached strategies had already been employed to prepare teachers for entrepreneurship education. However, the DBE's renewed focus on and drive to implement entrepreneurship education inspired a number of lecturers at this university's Faculty of Education to join forces to reconsider and redesign a new teacher training program that would contribute to improved teacher training for entrepreneurship education in South Africa, in line with the requirements of the DBE (2016, 11). The teacher training program would have to be suitable for both pre-service and in-service teachers, to enable the dissemination of effective entrepreneurship education to as many learners as possible.

Training teachers for entrepreneurship education however entails much more than developing knowledge and requires a different way of thinking and acting (Paloniemi and Belt 2015). As a point of departure, the statement by Seif, Kallick and Costa (2011, 1), that “teacher improvement and greater effectiveness are not determined by genetics, but by whether or not a teacher has key qualities and positive attitudes – Habits of Mind – that create the willingness and motivation to put in the required effort to improve teaching skills over time” was therefore acknowledged. Furthermore, the declaration of Nadelson et al. (2018, 114) that instruction and support is needed to foster a preferred entrepreneurial mindset “that embraces, processes and acts upon ideas of entrepreneurship”, was endorsed. The amendment and development of teachers’ entrepreneurial mindset should thus form the foundation and would be integral in the new teacher training program. The concept of ‘mindset’ is, however, fluid and sometimes ambiguous. For example, Claxton, Costa and Kallick (2016, 60) use the term mindset interchangeably with concepts such as 21st century skills, soft skills, non-cognitive skills, or character strengths. In another example, Toutain and Fayolle (2017, 989) define an entrepreneurial mindset as “the acquisition of a dynamic set of attitudes, values and cross-disciplinary competencies... [relying] mostly on the acquisition of soft skills ...” According to the Online Etymology Dictionary (2020), the term ‘mindset’ was initially used by psychologists and educators around 1916 and referred to “habits of mind formed by previous experience”. Based on these examples from literature, a mindset can thus be viewed as a way of thinking that can be taught and developed, and which depends on the prior experiences of learners (or, in this case, teachers-as-learners), as well as on them developing several skills or competencies. Thus, as part of the planning of and development for the new teacher training program for entrepreneurship education, it was necessary to investigate and analyze the different ways of thinking, as well as skills or characteristics, to ascertain which of these aspects should be included in the program to contribute to the entrepreneurial mindset that was envisioned for these South African teachers. The problem was that the large number of ways of thinking, skills and competencies associated with developing an entrepreneurial mindset, had to be refined to determine which of these aspects were vital for inclusion in the new teacher training program. The overarching goal of this investigation was to contribute to improved teacher training for entrepreneurship education, as per the DBE directive. The question that guided this investigation was ‘How can an entrepreneurial mindset be developed as part of teacher training for entrepreneurship education?’

Conceptual and theoretical framework

Four key concepts created the framework used for the investigation, specifically ‘ways of thinking’; ‘prior experiences’; ‘skills’ and ‘competencies’. These concepts emerged from the initial literature review as key contributors to developing preferred mindsets. The current investigation explored how the entrepreneurial mindset of teachers could be developed, to inform the structuring of the new teacher training program for entrepreneurship education.

‘Ways of thinking’ refers to how teachers and teachers-in-training think about or view entrepreneurship. Preconceived (and sometimes narrow) notions of teachers could influence their approach to teaching entrepreneurship education negatively. This will also be the case if teachers are not well-informed about the benefits and value of entrepreneurship education for their learners. Paloniemi and Belt (2015, 265) noted that entrepreneurship education should be viewed as “a valid concept in all human activities”, rather than narrowly focusing on “entrepreneurship as business-related functions and entrepreneurs as opportunity discoverers”, a view that many teachers share (p. 269). For this reason, the World Economic Forum recommends the creation of environments that will be conducive to encouraging entrepreneurial ways of thinking (WEF 2009).

Teachers’ prior experiences will impact the way they think about entrepreneurship as well as their knowledge about and frame of reference for teaching entrepreneurship education. A lack of prior entrepreneurship experience may limit the development of entrepreneurial characteristics (Ramayah, Ahmad and Fei 2012). In a suggestion that may overcome this issue, Kurczewska

(2016) combines prior experiences and prior learning, referring to this aspect as ‘the learning history’, which allows learners (teachers-as-learners in the current study) to reflect on past learning and experiences, learn from those, and plan for similar future incidences. Although prior experience may influence mindset, a preferred mindset can also be effectively developed through teaching and learning (Nadelson et al. 2018). Toutain and Fayolle (2017) recommend that a more open approach – to transform learners and learning – rather than a closed, prescriptive pedagogical approach, should be used for effective entrepreneurship education. The European Union (EU) recommends “Competence oriented [teaching-learning] approaches such as project based, arts based, inquiry based, experiential or work-based learning, [to] improve learning outcomes and learner engagement” (EU 2019, 15), all of which are also valid for entrepreneurship education. The European Union further notes that such education should include “opportunities for innovation, collaboration and cross-discipline learning”, should place learners at the center of the learning process, and should require learners’ active participation in their own learning (EU 2019, 15). Plans for new teacher training programs should therefore consider teachers’ prior experiences of teaching-learning methodologies, and include preparation to support teachers in developing new insights and experiences that are aligned with preferred teaching-learning strategies for entrepreneurship education.

Skills are the abilities of individuals to utilize prior and new knowledge while carrying out processes, in order to achieve results (EU 2019). While skill depends primarily on learning, it also covers the principles of performance efficiency and effectiveness (Adeyemo 2009). In particular, entrepreneurial skills include a variety of practices, activities and “know-how” which have to be taught to enable learners to become effective entrepreneurs (Mamun, Fazal, and Muniady 2019, 31). Entrepreneurial skills include both ‘hard skills’ (such as designing a marketing plan) and ‘soft skills’ (such as critical thinking or problem-solving) (Kakouris and Morselli 2020). Cataloguing and refining these particular skills were, however, not the core focus of the current investigation. What was important to note, was that these skills can be taught (Nadelson et al. 2018), as well as the assertion of Mamun et al. (2019) that learners have to develop a set of skills (through teaching and learning) that would underpin new ways of thinking, as well as the competencies they need to become efficient entrepreneurs. These skills were therefore included in the teacher training program, so that trained teachers could transfer similar skills to learners in their classes.

Competencies (the fourth key concept) are based on a combination of knowledge, skills and attitudes that is developed throughout a learners’ life, in both formal and informal educational settings (EU 2019). In the current study, competencies were viewed as abilities or capabilities required of an individual to perform or complete a task competently. Entrepreneurship competence is one of eight key competencies for learners in the European Union and refers to the “capacity to act upon opportunities and ideas, and to transform them into value for others” (2019, 19). This competence, therefore, envisages that learners will be taught how to combine knowledge, skills and attitudes to create entrepreneurial value not only for themselves, but also to the benefit of others. Entrepreneurship education can contribute financial, creative, social and ecological value (to name but a few) and should not narrowly focus on only developing financial or economic value (Rae 2010). Teachers’ ability and capability (or their competence) to effectively teach and foster learners’ competencies to create entrepreneurial value in different fields, therefore need to be enhanced in teacher training programs for entrepreneurship education.

Teachers need to develop all four of these concepts (ways of thinking, prior experiences, skills and competencies) to support the effectiveness of teaching entrepreneurship education. In other words, each of these concepts contributes to the construction and development of a positive entrepreneurial mindset. For this reason, the research was approached using a constructivist lens. From a constructivist viewpoint, an entrepreneurial mindset can be constructed through developing or fostering certain ways of thinking, skills and competencies, as well as through analyzing and adding to prior knowledge. Furthermore, teachers must have a positive

entrepreneurial mindset in order for them to learn about entrepreneurship (themselves) and to appreciate the value of entrepreneurship education, but also to enable them to construct effective entrepreneurship education experiences for their learners. Programs for teacher training, therefore have to develop a different way of thinking – which will influence how teachers view entrepreneurship education, and how they make meaning of knowledge as part of entrepreneurship education. To change their mindset (way of thinking) to increasingly view entrepreneurship as valuable learning for every learner – and not only for those learners who choose to become entrepreneurs.

Empirical investigation

An exploratory qualitative literature review was conducted from a constructivist point of view. Desktop research was used to find published research that would contribute to the purpose of the research, which was to explore the contribution of various ways of thinking, skills and characteristics to the construction of an entrepreneurial mindset, as part of entrepreneurship education. The key terms ‘entrepreneurship education’ and ‘entrepreneurial mindset’ were used for the search. The resources of the university library and the search engines it subscribes to were utilized. In particular, EBSCO-host were used, as the focus of the investigation centered on education, teaching and learning. Initially, the searches only extended to articles from the last decade, but as the analysis progressed, older publications that were referenced frequently in newer publications (such as the 2008 Habits of Mind book by Costa and Kallick) were also included in the analysis. The data were analyzed by means of systematic thematic analysis. The focus was on the *a-priori* codes of ‘ways of thinking’; ‘prior experiences’; ‘skills’ and ‘competencies’ that were determined from the initial literature review. Initially, many aspects related to each of these four concepts were identified as having the potential to contribute to answering the research question. However, after categorizing the codes and refinement of the themes, one particular aspect – the Habits of Mind – was identified as recurring in literature to a much greater extent than others. A second tier of analysis of the literature with a particular focus on how the Habits of Mind could affect the development of teachers’ mindset in the training program for entrepreneurship education, was subsequently conducted. The interpretation of the data was informed by how each of the habits realizes in or contribute to developing a positive entrepreneurial mindset, which were used to develop recommendations for inclusion in the teacher training program for entrepreneurship education.

Findings and discussion

The analysis of the data from the exploratory qualitative literature review revealed a vast amount of aspects that could contribute to or affect the development of a positive entrepreneurial mindset. Data analysis resulted in two themes that recurred most often in the literature, namely (1) that entrepreneurship education has to be structured to support learners to excel in today's educational climate (but which was not the core focus of the current study), and (2) that teachers need a wide array of entrepreneurial skills to enable them to teach entrepreneurship education effectively. It also emerged that the current set of essential skills or competencies suggested by the EU for its learners to enable them to excel in current learning climates (EU 2019, 13), align closely to the Habits of Mind that were developed by Costa and Kallick (2008).

Habits of Mind is based on a process that involves mindful thinking (Costa and Kallick 2008, xii), which increases learners’ eagerness to act with intellect when faced with problems, and may lead to answers that are not immediately apparent (p. 16). When humans encounter dichotomies, are puzzled by dilemmas, or face uncertainties, their most successful actions require specific patterns of rational activity to be drawn out. When drawing on these intellectual resources, the results that are produced through them are more powerful, of higher quality, and considerably more significant than when failing to use these patterns of intellectualism. The intellectual resources for successful behaviors require the development and maintenance of

certain habits of intellectual behavior, or Habits of Mind. Developing and subsequently employing Habits of Mind requires a combination of various, attitudes, skills and past experiences. It requires that one thinking pattern is valued more than another, and implies intentionally choosing which habit should be used at which time. In addition, sensitivity to contextual indications in a situation that indicates that it is a suitable time and circumstance to employ a pattern, is needed (Costa and Kallick 2008). Thus, it became clear that the different, intentional way of thinking associated with the Habits of Mind were closely aligned to what was required to be included in the new teacher training program for entrepreneurship education. However, uncertainty existed about the suitability of including all sixteen of the Habits of Mind (Costa and Kallick 2008) for developing teachers' entrepreneurial mindset to teach entrepreneurship education effectively. Therefore the remainder of the investigation focused solely on analyzing the suitability of each of the sixteen Habits of Mind for their potential contribution to support an entrepreneurial mindset when teaching entrepreneurship education.

Persisting

Persistence is a way of thinking teachers need for entrepreneurship education to enable them to cultivate the same habit of 'never give up' in their learners, to motivate learners to work with precision and to find ways to reach their goal when they think they are stuck (Seif et al. 2011). Teachers have to lay a foundation for persistence in entrepreneurship education that supports learners to concentrate on the task at hand, as well as to stick it out through distraction to ensure that the work gets done (Adeyemo 2009). In a continuously changing education environment, the researchers agree with Seif et al. (2011), that if teachers are trained to develop learners' skill of persisting, learners will be more motivated to overcome challenges and become self-confident, which can be transferred to entrepreneurship or contribute skills for employability.

Managing impulsivity

An efficient entrepreneur is one that is able to carefully and effectively manage time. Teachers also have to be successful managers of time and prioritize tasks efficiently. According to Costa and Kallick (2008, xx), managing impulsivity means "Take your time. Think before you act. Remain calm, thoughtful, and deliberate". It is therefore not a reference to working faster, but rather more determinedly and thoughtfully. To schedule and plan, teachers have to set their minds by thinking before acting, taking responsibility of the outcome of the thinking process, keeping calm if things do not work out as planned, be cautious, and take calculated risks when necessary (Costa and Kallick 2008). Impulsivity can, therefore, represent strength in entrepreneurial teaching – if it is managed well – and teachers need to be taught this skill.

Listening with understanding and empathy

Beall et al. (2008, 130) suggest that teachers should be "aware of listening and trained to be better listeners to begin making a difference in learners' listening competence". Learners' listening competence is therefore shaped by the example their teachers set on this front. It implies wisdom to seek out and listen to the advice of more knowledgeable others to contribute to knowledge construction, which is also supported in effective entrepreneurship education (European Commission 2011, 7) and evident of constructivism. Entrepreneurial competence "includes a desire to motivate others and value their ideas, empathy and taking care of people and the world, and accepting responsibility-taking ethical approaches throughout the process" (EU 2019, 13). Listening to and learning from others require the listener to "devote mental energy to another person's thoughts and ideas" (Costa and Kallick 2008, xx), which will expand knowledge as well as ways of thinking about or viewing concepts, and which will be beneficial in entrepreneurship. Teachers have to be taught how to listen deeply for their own teaching efficiency, and to enable them to transfer this skill.

Thinking flexibly

The willingness to adapt to change is a trait of teachers who have real entrepreneurial competence. It implies looking at situations in new ways, or finding ways to “change perspectives, generate alternatives, and consider options” (Costa and Kallick 2008, xxi). Teachers need to be keen on thinking about how to use the best teaching approach to meet the needs of their learners, but also adhere to the requirements for effective entrepreneurship education. This includes understanding the idea of adjusting their learners' view of the subject they teach to support an entrepreneurial mindset and to thinking flexibly. The teacher has to consider which teaching strategy will be the best approach to teach the content to the learners —challenging learners with a problem-based approach. The new teacher training program would therefore also incorporate this way of thinking.

Metacognition

Entrepreneurial skills include “constructive reflection within evolving creative processes and innovation” (EU 2019, 13). Thinking about ways of thinking and reflections combine to contribute to metacognition. Metacognition is an essential skill that all teachers have to learn. They have to become self-aware of their ways of thinking and their implementation of those thoughts, and they then have to reflect on the process – before, during and after the fact. They need to understand why they think about knowledge in a certain way, and how their way of thinking impacts all other aspects of their teaching. For example, teachers need to think which teaching approach will suit a specific topic the best and reflect for, during and after the teaching thereof, in order to improve subsequent lessons. The mindset of the teacher develops by practicing this habit, therefore metacognition and reflection will be vital for inclusion in the new teacher training program.

Striving for accuracy

The Habits of Mind concerned with analytic accuracy and precision are intimately connected to learners' “desire for exactness, fidelity, craftsmanship, and truth” (Costa and Kallick 2008, xxi). Learners who are striving for accuracy can figure things out, clarifying problems, gather data and recheck information (Adeyemo 2009). Entrepreneurs who strive to produce the most accurate product, or design the most accurate process or structure, will be better enabled to meet the needs of their customers. Costa and Kallick (2008) state that “flexible people are the ones with the most control” (p. 168), because they can shift their thinking and retain key information without losing their focus. Teachers therefore cannot have a slap-dash attitude toward teaching entrepreneurship education, and this competency will have to be instilled in them as part of their training program.

Questioning and problem posing

Problem-solving is embedded in and threaded through many of the key competencies for the future, according to the EU. “A problem-solving attitude supports both the learning process and the individual's ability to handle obstacles and change” (EU 2019, 11). Problem-solving relies on an ability to pose problems in the form of questions that need to be answered, but also on finding problems to solve (Costa and Kallick 2008). Kowalski (2009) addressed circumstances in which teachers and learners can benefit from the use of questions when he stated that “when teaching, the most powerful tool teachers have is the ability to engage the learner by asking questions. In general, learners tend to speak rather than listen. Asking questions facilitates talking” (p. 344). Teachers can use questions to engage learners in their own learning; to determine learners' prior knowledge, scaffold new knowledge and guide learners in the process to develop potential answers. Questioning allows both learners and teachers to explain their thinking, and challenge them to resolve problems, which is in line with the key competencies for the future of the EU (2019, 9), and also aligns well

with the requirements for effective entrepreneurship education. Teachers therefore have to be trained to develop the skills needed to pose useable questions and problems to their learners.

Applying past knowledge to new situations

Ștefănică et al. (2017, 855) indicate that subject-specific prior knowledge is the primary predictor for the development of professional competence. The habit of applying past or previously learned knowledge to new situations is essential for teachers developing an entrepreneurial mindset for effective entrepreneurship education. Ko and Butler (2007, 366) suggest that an ability to link previously unassociated information to derive new combinations is potentially useful for enabling “entrepreneurs and learners to be more creative in ways that make entrepreneurial behavior more likely”. According to the European Union (2019, 11) “the desire to apply prior learning and life experiences and the curiosity to look for opportunities to learn and develop in a variety of life contexts” contribute to personal, social and learning competencies. Teacher training should contribute to teachers’ competence to effectively construct new knowledge based on existing or prior knowledge of learners, so as to contribute to a broader learning experience for learners.

Thinking and communicating with clarity and precision

One of the primary dispositions of a teacher is communicating efficiently with colleagues, parents and learners, interacting with accuracy and consistency. Clear and precise communication ensures that information is not lost between parties and contributes to better understanding between different individuals. Without effective communication among stakeholders, learning becomes less structured and effective (Seif et al. 2011) and this therefore is a crucial skill every teacher should practice to enhance effective communication and collaboration with all stakeholders. According to the EU “Individuals should have the skills to communicate both orally and in writing in a variety of situations and monitor and adapt their own communication to the requirements of the situation” (EU 2019, 6). They should also develop the ability to “communicate constructively in different environments, collaborate in teams and negotiate” (EU 2019, 11). Communication is embedded in and threaded through most of the key competencies for the future, making it vital for inclusion in the teacher training program for entrepreneurship education.

Gather data through all senses

Most learning relies on auditory and visual senses of learners. Hearing and sight is often viewed as the gateway to learning. However, this narrow view excludes several other senses that can contribute to learners’ learning and understanding, such as olfactory (smell), tactile (touch), or kinesthetic (movement) senses (Costa and Kallick 2008). These other senses can be used to collect data (knowledge and understanding) that will contribute to a much richer learning experience for learners. In the modern educational world learners also have to learn how to identify, evaluate and select digital data, a competency referred to as digital literacy (EU 2019, 10). The outdated belief that learning is ‘only linked to books’ need to be shelved and teachers have to be trained to use more of their senses to collect data, as well as other resources, including digital data sources, that will contribute to a broader and richer learning experience for their learners.

Creating, imagining and innovating

“A positive attitude includes curiosity about the world, an openness to imagine new possibilities...” (EU 2019, 14). Creative thinking needs to be developed as part of entrepreneurship education in order to foster different ways of thinking that will enable new ideas and new solutions to existing problems. Generating new and innovative methods and solutions are key ways of thinking to support teachers to create positive entrepreneurial mindsets. Creativity is a skill that is included in several of the key

competencies that learners will need in the future (EU 2019, 10). In addition, “Entrepreneurial skills are founded on creativity ...” (EU 2019, 13), thus creativity, imagination and innovation are foundational skills that are required for entrepreneurship, and these should be included in entrepreneurship education. The innovative and creative ways of thinking should be taught to teachers, so that they can transfer similar learning to their learners.

Responding with wonderment and awe

According to Eisner (1991, 11), “One important aim of schooling should be to create a climate that evokes learners’ sense of wonder and inspires their imaginations to soar”. He suggested that learners need to enjoy what they are learning in school so that they will want to continue learning outside of school. According to Eisner, “Intellectual activity at its highest level is often associated with play” (p. 14). Play gets learners involved so that they feel fulfilled and want to know more. One of Eisner’s priorities is that “In classrooms, it also counts to teach the youth the importance of wonder” (p. 15). He proposed that schools tend to “undermine the significance of wonder” (p. 15). Teachers tend to believe that they are not working while learners daydream. This aspect closely links to teachers’ choice of teaching-learning methods, thus, to support effective entrepreneurship education, teachers have to be trained in methods and pedagogies that will foster learners’ sense of wonderment and awe.

Taking responsible risks

“The ability to ... cope with uncertainty, ambiguity and risk as part of making informed decisions is essential” (EU 2019, 13). Teachers need to take responsible risks while considering many variables on a daily basis. This habit will let them change their entrepreneurial mindset and those of the learners. Teachers can try new pathways, become self-motivated and self-disciplined, but have to know when to stop if the risk becomes too high. Attempting new and innovative methods, even though the risk of failure exists, is essential to challenge learners and make the learning process awe-inspiring. Teachers are therefore urged to take chances and explore new teaching methods in their classrooms (Adeyemo 2009; Seif et al. 2011), but they have to be taught how to do this effectively.

Finding humor

According to Kuhrik et al. (1997, 333), humor helps teachers to create a “positive learning environment; laughter in the classroom signals [that] learners are learning”. In another study, Lei et al. (2010, 331) found that “the use of humor can also increase learners’ interest, attention, motivation, and comprehension of the course material”. Thus, when implementing humor as one of the Habits of Mind, learners will feel more comfortable and free to ask questions. Based on their own collective experiences, the researchers established that learners’ academic performance improves due to the openness between the lecturer and the learner created by including humor in teaching-learning. Despite links between humor and entrepreneurship education being nebulous, the positive effect that humor has on learning environments, underscores the need to also include this habit of mind in the training program to develop teachers’ positive mindset.

Thinking interdependently

Thinking interdependently benefits learners who work together in groups, are part of a team, or who collaborate to share ideas reciprocally (Costa and Kallick 2008). Learners “should be able to communicate constructively in different environments, collaborate in teams and negotiate” as part of personal, social and learning to learn competencies that are required for modern educational contexts (EU 2019, 11). The Oxford Dictionary (2020) defines ‘collaboration’ as “The action of working with someone to produce something” which clearly shows the value of this skill for entrepreneurship education. The reciprocal approach to interdependent thinking highlights that such thinking and the

resultant co-construction of knowledge benefits all parties involved and it is therefore not one-sided, which further motivates learners. Teachers have to be trained on the value of this way of thinking, as well as how to carefully construct this process as part of learning.

Remaining open to continuous learning

The illusion sometimes exist in teachers as well as learners that "I have so much more to experience" (Hayat 2019) which hinders their construction of new knowledge. Teachers should become life-long learners and be receptive for continuous learning (Hayat 2019). Habits of Mind is one of the five standards of Marzano's framework of life-long learning (Marzano et al. 1994), which is based on three aspects, i.e. self-regulation, critical thinking, and creative thinking. Being open to new learning also means being open to unlearning and re-learning, which is essential in the fast-changing educational landscape of the present. Continuous life-long learning will add to continued construction of knowledge, and development of skills and competencies, which can all serve in the pursuit of entrepreneurial opportunities. Teachers have to become lifelong learners, and continuously strive to improve their own learning, in order for their learners to benefit from their updated learning.

Conclusion and recommendation

Entrepreneurship education is vital to ameliorate the high youth unemployment rate in South Africa. To augment entrepreneurship education, purposeful teacher training is needed with a particular focus on amending and developing teachers' entrepreneurial mindset. It can be concluded that several skills, characteristics and habits contribute to the development of positive entrepreneurial mindsets, including each of the sixteen Habits of Mind. It is therefore recommended that the new teacher training program for entrepreneurship education be scaffolded around the sixteen habits that will contribute to developing the ways of thinking, skills and competencies of the teachers in the program. In addition, several of the Habits of Mind will support teachers in utilizing and/or adjusting their prior learning in order to be open to or contribute to the construction of new knowledge. If the new teacher training program is successful in training teachers for effective entrepreneurship education, more learners will take up entrepreneurship which in turn will contribute to ameliorating the high unemployment rate in South Africa.

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An Exploration of Barriers Female Engineers Face in the Workplace

Dr. Tyene Houston

InsightConsultingGroup LLC/Pepperdine University, USA, tyene.houston@pepperdine.edu

ABSTRACT: The global focus to attract more females to the engineering profession and oil and gas companies are of paramount importance. There is a dire need to train and cultivate female engineers to increase economic advancement and innovation. Worldwide, the demand for those equipped with engineering expertise exceeds the talent pool pipeline. Despite laws enacted to mitigate gender discrimination, implicit gender bias persists in the workplace. Correspondingly, these challenges permeate against a backdrop of a crippling shortage of qualified engineers, and the high number of those who will retire within the next decade. To power future engineering and energy projects, it will require educators, policymakers, industry leaders, and philanthropists alike working collaboratively to infuse effective strategies that are drivers for pipelining talented female engineers. While the body of knowledge is extant around the shortage of women pursuing careers in science, technology, engineering, and mathematics (STEM) fields, the management literature has gaps regarding strategies successful female engineers employ to lead rewarding careers. The purpose of this research informed by Bandura's (1986) Self-Efficacy Theory is to understand the beliefs, attitudes, and outcome expectations of successful female engineers who experience barriers in the workplace.

KEYWORDS: Female engineer, career barriers, gender bias, a global economy, oil and gas company

Introduction

Females and the plight of their career paths have amassed a reasonable amount of interest in the management literature. This body of knowledge suggests female career development has been wrought with issues due to gender bias (Hatmaker 2012). Despite laws and statutes designed to protect marginalized populations from discrimination in the workplace, inequity persists especially against females (Hamel 2009). However, explicit gender discrimination in the work environment is perceived to be less evident following the enactment of the 1963 Equal Pay Act and the 1964 Civil Rights Act.

Notwithstanding, implicit workplace gender discrimination continues to permeate business and industry. Moreover, these implicit biases contribute to gender disparity during the recruitment, selection, and placement process in employment that inhibit a woman's ability to experience continuing success in the corporate arena (Hatmaker 2012). In the U.S., there is a dire need for innovation and ingenuity akin to developing creative engineering solutions to solve complex problems in a global economy (Hatmaker 2012). Furthermore, females are markedly underrepresented in science, technology, engineering, and mathematics (STEM) professions not only in the U.S. but, in many countries (Mozahem et al. 2019).

Interestingly, the number of female college graduates outnumber their male counterparts worldwide, yet females remain woefully underrepresented in STEM fields (Mozahem et al. 2019). Despite having earned college degrees as STEM majors from top universities, scholars of the World Economic Forum (2017) purport only 26% of jobs in the technology sector are performed by females (World Economic Forum, 2017). Correspondingly, the shortage of females employed in STEM professions is glaring on the international landscape (Mozahem et al. 2019).

Gender inequality and the plight of women in STEM fields have been issues concerning the political agenda of the United Nations Educational, Scientific and Cultural Organization (UNESCO 2016). The UNESCO in tandem with the STEM and Gender Advancement (SAGA) project, developed during the years 2015 to 2018, has emphasized delivering lawmakers and policymakers tools to mitigate gender disparity in STEM fields (UNESCO 2016). The scarcity of females in STEM professions is notably higher in the male-predominate field of engineering as compared to other STEM disciplines like mathematics and technology which makes this issue uniquely relevant to the literature (OECD 2015). Work initiatives that promote gender equity and the empowerment of

women and minorities are paramount to bolstering contemporary economies (UNESCO 2016). Although progress has been made within the past 20 years, this issue of too few women in STEM fields persists and continues to have detrimental effects on the U.S. economy and economies worldwide (UNESCO 2016).

The major research around this study concerns the challenges successful female engineers in the oil and gas industry face in their career trajectories. More importantly, it focuses on their perseverance and resilience in mitigating such challenges. In so much as an “engineer” is a problem-solver by nature, this study shows the problem-solving skills employed by female engineers when faced with adversity. From an empirical standpoint, to address this issue, Bandura’s (1986) Self-Efficacy Theory serves as the theoretical underpinning that informs this research.

Strategies to Mitigate Barriers in the Workplace

In the male-dominated engineering field, oftentimes, females use innovative approaches to problem-solving to assuage adversity in a contemporary society that is diverse and multi-faceted (Hausman & Johnston, 2014). Female engineers are crucial in modern-day economies to maximize the growth and success of organizations (Hausman & Johnston 2014). The next section of this study highlights ongoing challenges faced by females in the workplace that further justifies the need for this research.

Structural hierarchies, deep-rooted norms, and stereotyping force females to hone their skills in mitigating career barriers (Hewlett & Luce 2005). Notwithstanding, defying workplace challenges can build resilience, oftentimes, allowing one to rise above adversity and grow from it (Hewlett & Luce 2005). Recent research around gender offers a glimpse of professional women as agentic, and despite roadblocks, effective at applying strategies to navigate their careers (Clec & Kels 2013). This depiction is in sharp contrast to prevailing perceptions and assumptions which characterize women as passive in mainstream management and organizational literature (Bendl 2008; Ely & Padavac 2007; Martin 2000). Furthermore, scholars and researchers have attributed the persistence of historical norms to the implicit reinforcement and adoption of a male perspective in the management literature (Khilji & Pumroy 2018). Although stereotypical roles and career barriers have persisted, females’ self-perceptions have evolved. Therefore, given this shift, it is essential the career development of females be captured through their lived experiences in which emphasis is placed in tactics they employ to overcome career barriers (Khilji & Pumroy 2018).

Therefore, this study highlights strategies employed by female engineers that may be adopted to overcome the systemic vestiges of intolerance in the workplace and identify effective approaches that enable success in careers. In that vein, this research also provides a context for understanding the complexities faced by females in engineering versus science, technology, and mathematics.

The underrepresentation of females in the field of engineering has a far-reaching impact on the U.S. economy (U.S. Department of Education 2015). Moreover, many females who choose STEM fields often exit the profession in favor of gender-balanced careers. Therefore, an understanding of females’ experiences may encourage the creation of strategies geared toward minimizing attrition in this male-dominated profession.

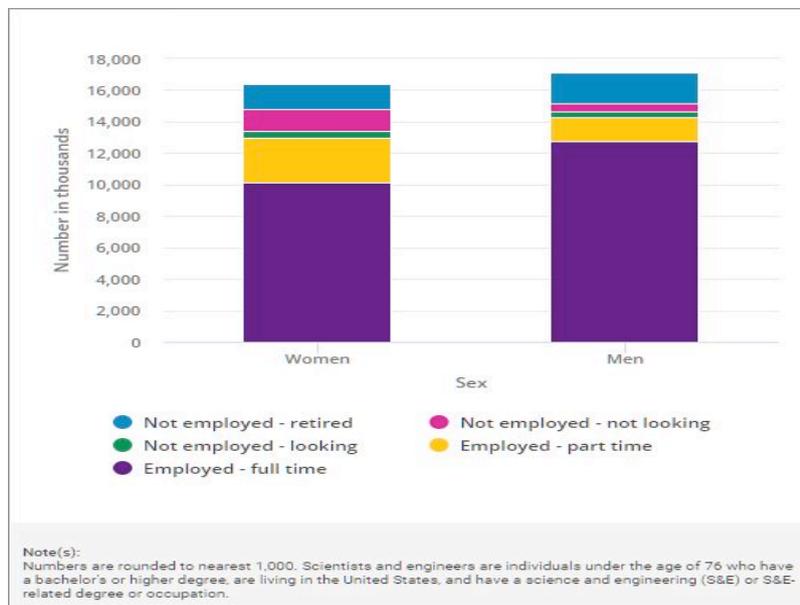
As mentioned earlier, Bandura’s (1986) Self-Efficacy Theory informed this study as this theory seeks to interpret the beliefs and attitudes of female engineer professionals (Bandura 1986). Additionally, this theory is premised on the notion “psychological procedures, whatever their form, serve as a means of creating and strengthening expectations of personal efficacy” (p. 193). According to Bandura, self-efficacy beliefs and outcome expectations of individuals influence actions by acting indirectly on interests and choice goals (Hodkinson & Sparks 1997). Lent et al. (2013), suggest a social cognitive career perspective would help clarify career development and choices across the lifespan (Hodkinson & Sparks 1997). Put simply, motivation and self-efficacy are individuals’ beliefs surrounding their capabilities to influence positive outcomes and employ strategies that prove effective in the lives they wish to lead. Self-Efficacy Theory describes how people are motivated, perceive their place in society, and their beliefs and values (Lent et al. 2000).

This paper is framed into seven segments in which the first section offers a review of the literature that suggests gender discrimination and bias has had a tremendous impact on females, especially in the work environment. In section two, there is an exploration of gendered profession barriers that are inherent in gender dominated fields followed by gender-based workplace statistics provided in section three. In section four titled, “Becoming an Insider” emphasis is placed on the need for females to experience a sense of belonging especially in male-dominated professions. In section five expect an introduction to a relatively new phenomenon “glass cliff” which offers examples of how females in leadership roles compared to their male counterparts in like roles are promoted to positions known to have had less than favorable performance outcomes. The sixth section provides insights from female engineer executives that show how they were tactical in mitigating pitfalls in the workplace when faced with gender bias. In the conclusion, it is suggested unique challenges require organizational leaders to employ inimitable strategies for managing subpopulations of talent.

Literature Review

In so much as females have increasingly earned more engineering bachelor’s degrees compared to their male colleagues since 2000, their educational gains have not progressed equally in science and engineering arenas. Moreover, women persist in underrepresentation in upper-level positions in both academia and corporate America (Joshi 2014). For instance, in the corporate arena, female engineers in leadership roles lead teams with fewer employees compared to that of men (National Science Foundation 2018). At supervisory levels, females comprise nearly 9% of all engineering supervisors and roughly 12% of natural science supervisors relative to 20% of supervisors and approximately 16% of directors in other professions (National Science Foundation, 2018). Furthermore, irrespective of ethnicity, average annual salaries for female engineers were roughly 75% in comparison to their male colleagues (National Science Foundation 2018). Correspondingly, these statistics suggest, strides made by females in engineering have not boded well surrounding their advancement in the engineering workplace (Joshi 2014). In 2017, when comparing the employment status of female scientists and engineers, fewer females than males were employed full-time, and roughly twice as many females were employed part-time (National Science Foundation 2017). However, females often reported family responsibilities resulted in working part-time while men were generally retired (National Science Foundation 2017). See Table 1 for data on the status of scientists and engineers of employment by sex.

Table 1. Employment Status of Scientists and Engineers, by Sex: 2017



Source: National Science Foundation (2018), *Science and engineering indicators 2018*

Despite these statistics, this study considers how female engineers employ strategies to thrive and persevere in response to interactions in a male-predominate workplace. As such, data from interviews with female engineers and that of management literature show how these interactions influence feelings of belonging in engineering practitioners.

A Gendered Profession

Considering it was in 1892, a woman first earned an engineering degree in the U.S., progress has been far and in between (Sloan 1975). Moreover, there exists a continuing story in the literature regarding how women may or may not belong within the field of engineering, why the field of engineering is seemingly gender-biased against women, and how women identify with the engineering profession (Martin & Barnard 2013). Furthermore, much of this literature suggest gender-specific interactions in the workplace discourage women from thriving in the engineering profession (Martin & Barnard 2013).

Du Plessis and Barkhuizen (2012) centered their research on obstacles female engineers experience in the workplace. Moreover, findings from their studies conflate with large-scale research in that the following are barriers often debated (Du Plessis & Barkhuizen, 2012):

- a) inadequate training and mentorship opportunities
- b) ambiguity regarding pathways to integrate into the field of engineering
- c) implicit gender bias and discrimination
- d) continuous negative psychological experiences
- e) blatant gender stereotyping
- f) sentiments of under-utilization and low self-efficacy
- g) consistently assigned to low priority projects
- h) lack of work/life balance options

Extant research show, as a coping strategy, some women adopt masculine interaction styles (Kanter, 2020). Nonetheless, data show efforts to construct a professional identity, and feelings of belongingness are ambiguous. In using raw data from face-to-face, semi-structured interviews with female engineers, this study offers an analogous impact on management literature and underscores the implications of interactions in engineering culture. Furthermore, it illustrates females construct their identity in fields dominated by males by mitigating interactions that compromise their identity. Additionally, female engineers employ strategies to allay these occurrences to their sense of self and belonging in the profession of engineering. The next section highlights the statistics around the difficulty females face along their career trajectory to garner executive-level positions and earn comparable salaries to their male counterparts.

Gender-Based Workplace Statistics

When women are key players in the decision-making process of a team, performance outcomes tend to increase. Although the percentage of females in leadership positions at corporations has increased over the past 20 years, in recent times, progress has been slow. Moreover, the dearth of females in leadership roles is not due to a lack of education (Dworkin et al. 2018). By 2017, nearly 35% of women had earned a bachelor's degree or higher and in 2017 women completed graduate school at a rate higher than men (U.S. Census Bureau 2017). For example, in 1980 there was a low proportion of women in senior executive-level positions at Fortune 100 corporations, yet proportions increased to nearly 12% by 2002 (Warner 2014). From 1997 to 2009, board positions held by females in S&P 1500 corporations increased by roughly 95% (Warner 2014). According to the World Economic Forum's 2017 Gender Gap Index, females occupied roughly 17% of the board positions of companies in the U.S. that are publicly traded (The Global Gender Gap Report 2017).

Gender equality and the advancement of females in corporate leadership positions are noteworthy; however, progress is slow and inadequate. Similarly, industry leaders have been lacking in increasing the percentage of females that sit on corporate boards in recent years (The Global

Gender Gap Report, 2017). Moreover, in 2018, females occupied less than 22% of executive roles in North America, down from 23% in 2017. See Table 2, for a schema of the McKinsey Global Institute Growth Model.

Table 2. McKinsey Global Institute Growth Model

If every country matched the progress toward gender parity of its fastest-improving neighbor, global GDP could increase by up to \$12 trillion in 2025.

Incremental 2025 global GDP over business-as-usual scenario, ¹ %	Incremental GDP, \$ trillion	
India	16%	0.7
Latin America	14%	1.1
China	12%	2.5
Sub-Saharan Africa	12%	0.3
North America and Oceania	11%	3.1
World	11%	11.8
Middle East and North Africa	11%	0.6
South Asia (excl. India)	11%	0.1
Western Europe	9%	2.1
Eastern Europe and Central Asia	9%	0.4
East and Southeast Asia (excl. China)	8%	0.9

¹Sample = 95 countries.

Source: IHS; ILO; Oxford Economics; World Input-Output Database; national statistical agencies; McKinsey Global Growth Model; McKinsey Global Institute analysis

McKinsey&Company

Source: McKinsey Global Institute Growth model (2015) *How advancing women's equality can add \$12 trillion to global growth* [Image]. Permission granted to publish by McKinsey & Company.

Becoming an Insider

For females in engineering and other professions dominated by males, an overarching goal is to feel a sense of belonging (Hatmaker 2012). Females in fields dominated by males employ unique strategies for coping that positively affect their zeal to excel. Similarly, females in the engineering profession, construct their identity at work to become an insider, and gain a sense of belonging within multifaceted teams (Hatmaker 2012). Oftentimes, acceptance hinges on how well a female engineer's identity is perceived to be accepted among male peers (Hatmaker 2012). Therefore, constructing an identity in the workplace can be intensified by gender disparity that places a greater status on being a male engineer compared to a female engineer (Hatmaker 2012).

The Glass Cliff Phenomenon

This section provides insight into hurdles female engineers experience in their quest for positions of leadership and the securing of prized assignments. In that vein, when females do succeed, such positions tend to be riskier than those garnered by men (Acar & Sumer, 2018). This form of bias is called "glass cliff" (Adams et al., 2015). Little research examines gender bias that contributes to glass cliff. Glass cliff is the phenomenon where females are slotted into roles and positions associated with less than favorable outcomes, while men are more likely to be groomed for high-level positions

associated with success (Bruckmüller et al., 2014). Therefore, the glass cliff phenomenon suggests female leaders compared to male leaders assume positions associated with poor performance, and therefore female leaders are held accountable for failure set in course before their promotions (Bruckmüller et al., 2014). Furthermore, due to glass cliff, the reputation of female leaders and their careers can ultimately be damaged (Bruckmüller et al., 2014). Other implications associated with glass cliff are a female's failure in a position where the risk of failure is greater, reinforces stereotypes that females are not befitting for roles of leadership (Bruckmüller et al., 2014).

Workplace Strategies Employed by Successful Female Engineers

This research shows successful female engineers developed high-performing teams and were astute at building closer relationships with customers given the increased connectivity for financial gains (Chou 2019). Having built careers with global corporations, these successful female engineers were keen at reading the “tea leaves” as they had many years of experience living in countries overseas in both developed and emerging economies (Houston 2019). The ability of these engineers to adjust leadership styles and approaches depending on the team or issue was a strength honed through experience, expanded skills, and high-self-efficacy (Houston 2019). Similarly, the “depth and breadth” in which these engineers approached leadership was evident in how they carefully selected and hired those who demonstrated high emotional intelligence, were experts in varying technologies, and boded financial experience. Additionally, successful engineer leaders were in keeping with trends and changing systems, be they companies, industries, countries, or global societies.

Notwithstanding, drivers surrounding moral and ethical issues were a highpoint for female engineers with successful careers as they provided unique perspectives to the decision-making process as members of a historically marginalized group, i.e., each of the engineer executives shared their “lived experiences” as females building careers in an inordinately male-dominated industry (Houston 2019). For example, findings unearthed scenarios in which they were commonly overlooked for promotions to not garnering projects global in scope to gender pay disparity to working within a hostile environment (Houston 2019). Yet each was undaunted and found their “voices” along their career trajectories (Houston 2019).

Conclusions

The successful retention of human capital in the global workplace has been affected by unprecedented changes in labor force demographics. These unique challenges require industry leaders to employ effective strategies for managing subpopulations of talent (World Economic Forum 2017). The disparity is apparent horizontally as exemplified by females working with individuals and males with objects and things (Blackburn & Jarman 2006). And, vertically with males dominating superior positions across sectors (Blackburn & Jarman 2006). This is true even in relatively gender-equal countries (World Economic Forum 2017). Thus, the persistent discord between males and females regarding equity in the workplace presents unique opportunities for leaders to ensure full participation of women and other underrepresented groups especially at oil and gas companies and the global STEM workforce (Houston 2019).

When devising organizational policy, corporate leaders would do well to emphasize the importance of mentoring and advocacy programs for women to help level the playing field and offer gender bias training for males. Furthermore, industry leaders can mandate improvements to the work environment for women by creating family-friendly policies. Not only would these changes be praiseworthy, they will likely increase performance and prove significant in resolving the paradox surrounding the shortage of females in the engineering profession (Dworkin et al. 2018).

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Discernment Issues in Context of Juvenile Delinquency

Nicoleta-Elena Hegheș¹, Cristina-Gabriela Șchiopu²

¹ Professor PhD "Dimitrie Cantemir" Christian University of Bucharest, Faculty of Juridical and Administrative Sciences, Bucharest, Romania, nicoleta.heghes@ucdc.ro

² Dr. Institute of Psychiatry "Socola" Iași, Romania, schiopu_cristina_gabriela@yahoo.ro

ABSTRACT: The latest statistics have shown a rise of juvenile delinquency over the the past 10-20 years. Not only the number of offences have risen but also the character of the offences have become more complex. Law enforcement has faced this phenomenon unprepared and it's systems of penalty, reeducation and social reinsertion of these youngsters have failed in many cases as the approach on this matter has failed to solve psycho-social and familial problems that reside under the behavioral deviation of youngsters. The truth is that dealing with a child in law system has a more complex and difficult elements the need to be considered, unlike adult delinquency. From under 10 years old to 18 or 21 years there is an abrupt and oscillating evolution of the child's psychology, personality and cerebral physiology with complex influences by near environment, social and familial factors, intellectual and emotional stimulation. Juvenile delinquency needs to be a multidisciplinary evaluation of the youngster and a complex psychological and psychiatric evaluation of the child's discernment and personality in order to insure a healthy social adaptation and integration of the future adult.

KEYWORDS: delinquent, underage, discernment, psychiatry, penalty

Introduction

The psychiatric forensic expertise of minors is a very complex science with multidisciplinary characteristics. On one side, there is the forensic medicine which is the major coordinating forum and an important communication and translating link between medicine and law. The other side resides on the psychiatry and connected disciplines which in minor's cases are, psychology, neurology, genetics and social sciences (Ash 2004, 452).

Until 1960, in Romania, expertise on minors was made by adult psychiatrists researching family and school references producing high issues on the subjectivity of the evaluation. After 1960, child psychiatry was developed as an independent domain which made underage penalty investigation evolve into a much fair and objective process. Furthermore, involving social assistance has made preventive care, protection, and reintegration of the child much easier, without disrupting his future evolution as an adult (Ostrovari & Baltaga 2019, 19-22).

General considerations

Forensic psychiatric expertise of minors tends to be one of the most difficult forensic expertise in the field of legal medicine. Analysing a child's mind, behaviour, personality and the characteristics of the environment he develops in, is a complex process whether the investigation concerns the minor as a felon or as a victim. For penal cases, every minor involved as an offender, no matter the case, has to be submitted to psychiatric expertise but only those over 14 could be submitted to different forms of punishments or re-education. On the other hand, in the cases of victimology, complex and serially evaluation is needed and the follow-up of the investigation and decisions for the child and for those involved directly depends on the psychiatric expertise (Schetky & Benedek 2003, 45).

The complex and difficult part of this expertise resides in the fact that from childhood to adolescence, there are constant changes in the personality, emotions, behaviour and judgement of the minor with high influences from the family, educational stimuli and the social environment he lives in. evolution of the future adult is oscillating and impregnated with low control over impulses and emotions which will affect deeply the way he responses to stressing factors (Gherasim 2013, 259).

Analysing such a fragile and volatile mind and personality and concluding all elements into an objective and measurable evaluation involves a hard interdisciplinary effort and a great responsibility as the bio-psycho-social balance of the future adult could be affected (Van Nieuwenhuizen, Bongers & Barendregt 2011, 89-90).

Responsibility of minors. Legal and psychiatric aspects.

The concept of minority is represented by the bio-physiological state of the individual up to 18 years of age, as well as by the socio-legal state of the individual, comprising three periods: until the age of 14, when the minor is not criminally liable regardless of the gravity of the act committed; the period between 14-16 years, when the minors are criminally liable if they have the discernment of the facts produced and the period between 16-18 years, when the minors are not liable unless they have the discernment of the committed deeds. Through the sanctions that may be applied, the minors benefit from the special favorable regime regarding the criminal punishments, as well as the educational measures adopted against them. The liability of minors thus appears as a specialization of criminal liability, a feature that aims mainly at reducing punishment and increasing the effectiveness of educational measures for social reform of the individual. The essential feature of the legal regime in favor of the sanctions of the minor offender consists in diminishing the maximum and minimum limits of criminal punishments, the punishment being between half the minimum and half of the maximum sanction provided by the criminal law. The process of differentiating the sphere of the concept of minority is carried out in criminological science, in four phases: childhood, adolescence, maturity and old age, thus there is a diverse range of criteria for establishing favorable causes and conditions, the effects of crimes and means and ways of social reform of juvenile offenders. From the point of view of the terminology of criminal law, only the concepts of “minor” - minority and “major” - immaturity, the concepts of “child” - childhood and “old man” - old age have legal significance, being devoid of legal importance, because compared to the legal criterion of age, both responsibility and individuality will take into account the person of the offender (who may be overwhelmed by experience or may suffer from a severe sensory, physical, mental disability due to old age). Therefore, the two forms of reporting the age of the offender: the minority period and the adult period, occupy a precise place in the activity of criminal investigation, legal and judicial individualization of criminal penalties (Tănăsescu I., Tănăsescu C. & Tănăsescu G. 2002, 647).

The non-custodial educational measures regulated in the Romanian Criminal Code are the civic training period, supervision, weekend recording and daily assistance. *Educational measures depriving of liberty* are hospitalization in an educational center (for a period of 1 to 3 years) and hospitalization in a detention center (for a period of 2 to 5 years or 5 to 15 years).

Responsibility in the face of law involves psychological and physiological maturity of a person and is the main condition of penal liability. So, responsibility depends on the level of development of the cognitive and psycho-social capacity and attributing these elements to a minor can be relative and disputable even for children with near full age. So how much responsibility can be submitted in those cases.

In law, there are 2 factors that describe the state of responsibility: the intellectual factor and the volitional factor. The intellectual factor refers to a person's capacity of realizing their actions or non-actions and their social significance and implications. The volitional factor refers to a person's capacity of consciously directing his actions. Furthermore, responsibility implicates a strong, healthy psychologic foundation, orienting a person's actions to a desired goal by discerning the meaning and finality of those actions. Responsibility is correlated to imputability, as a person's capacity of being submitted to a punishment for his mistake understanding the wrong in their decisions and correcting himself. Imputability is directly proportional to responsibility so the psychiatric expertise will conclude not only if a person is responsible for his actions but also if he has the capacity of going through a trial and accept the law repercussions as the main objective of any law is to give justice to the victim but also to correct the felon, integrating him back to society as a normal individual (Monden 2003).

The medical definition of responsibility and what the goal of the psychiatric expertise is, resides in the notion of discernment. Evaluating discernment with all psychological elements of the person will translate in the state of responsibility at a certain time and a specific action. In order to assess discernment, there are elements to examine and those are psychological capacity, consciousness and personality. In fact, discernment is a dynamic synthesis of consciousness and personality that motivates and executes an individual's actions. Evaluating discernment in minors can have a good and a bad aspect because of the meaning of discernment. The bad part is that the commission is trying to evaluate a growing and incomplete personality with consciousness still being bombarded by emotional and socio-cultural and familial factors. That problem is somehow fixed by assessing not only the biological age of the minor but also his socio-psychological age which reveals the qualities and non-qualities that his personality and mind have collected to that point. Furthermore, instinctual is what drives a youngster to take most of his actions, emotions are his motivation, leaving aside the mental analyze of all aspects of an action. That being said, revealing a young man's discernment can be as difficult as relative and debatable. On the other hand, a raw personality can absorb the essential elements out of a critical situation so law enforcement in minor cases can have a defining educative role in forming the future adult as a healthy participant of the society (Bailey & Dolan 2004).

As said above, responsibility depends on discernment. Psychiatric expertise conclusions can go in 3 directions based on that aspect: if the minor has a psychiatric pathology which affects his psychological capacity, clinical protective measures will be taken as well as for his well-being but also for social well-being. In these cases, the child has no legal capacity to take responsibility for his actions as he is unable to assess and conduct his behavior in a mature psychological manner. In Romania, until the age of 14, the minor is legally absolved of any guilt as he is considered to be lacking discernment. For over 14 years old, minors with mental deficiency and a small part of psychiatric pathology can cause a fault of discernment. Those cases tend to appear rarely in comparison with adult psychiatric diseases. Of course, if there are some psychiatric problems, but the minor is not considered a social danger, he can receive treatment in liberty or in confinement if that is the case (Kraus & Thomas 2011, 1308).

A second direction of the expertise is the of a present discernment, in which case, an over 14 year old minor can be submitted to correction procedures or even a punishment in case of a severe offence. For over 16 years old minors, law is applied equally to an adult. There are still, some concerns regarding responsibility in adolescences as we stated above, because some experts believe that their personality and consciousness are not in a perfect symmetry but in a still fragile immature state (Dulcan & Wiener 2004).

The third direction is that of a diminished discernment. That means that a special circumstance at the moment of the action has interfered with the minor's capacity of judgment at that moment, making him unaware of the dangerous result of his actions. Of course the first thought are those states of intoxication that decrease judgment and impulse control by directly affecting the nervous system. In Romanian legal system, as well as for forensic psychiatry, only involuntary intoxication, if proved, can be considered as such. Voluntary intoxication with psychoactive substances can be considered, in some cases, a premeditation of the antisocial act. There is also some somatic pathology that can affect one's motivation, instinct and consciousness but these are extremely rare. In contrast with other countries, psychiatric expertise can state the diminished discernment but cannot state, in these cases, the state of low responsibility, the investigation and trial following to decide whether these special circumstances will affect or not the minor's responsibility (Leş 2015, 36-40).

Behavioral disorders and criminality

Although the majority of cases are concluded with full present discernment and responsibility, the most of adolescents that undergo a psychiatric expertise will be diagnosed with behavioral disorders. There are many ethical and moral debates on the subject as a young mind, submitted to negative impact factors from family and near environment with low intellectual stimuli and unfavorable material conditions could really understand the gravity of his actions. It is true that the law takes

protective measures for these youngsters but if the offences are more complex or involve a more aggressive phenomenon they could face liberty deprived measures in a re-educational centre. There are serious questions about the quality of the re-educational process for these minors as statistics have shown over the years that most of them will rebound to antisocial behavior and law offences at some time after exiting the program (Rutter 1992, 455). Psychiatry and bio-psychology could explain this phenomenon by characterizing specifically what deviant behavior is and how it can affect an individual's character or it can remain as an isolated state in a specific situation involving external factors. There are also social elements that sometimes prevent the young to return to a normal life. Unfortunately, social groups tend to marginalize the former felon or the family he returns to cannot offer him a better adaptation, making him return to the only path that insures him with acceptance and material balance - the criminal world, and that is the problem with adults also, but minors tend to be the most affected part (Hasking 2007, 740).

Analysing behavioural disorders in minors will assess a multilateral evaluation of the child's psychology and external factors. In most literature, deviant behavior is represented as material and symbolic actions, conducted repeatedly, persistently or continuous, in most cases being a response to frustrations that he accumulates during interaction with the environment and which will cause social damages. As stated above, juvenile delinquency is a psychological phenomenon bases on behavioral disorders which are disrupted responses to stress and psycho-traumatic elements from the environment. Some common elements of the deviant behavior are disorganized thinking and activity, incomplete system of values, opinions and principles, an addiction to other people's opinion over himself, those people being members of groups or individuals that he look up to for various social and material reasons, high emotivity and low impulse control (Fedorova 2015, 4, 6).

Prior to a delinquent act, there are signs and elements in the minor's personality and behaviour that could precede a future deviant outcome. Oppositional reaction when requirements are high, there is attention deficit from adults or even severe restrictions from the family, are trigger factors for antisocial and aggressive behavior; this reaction appears when the child is unable to accept authority and impose his own interests above rules. Imitation of a personal hero from real life or media, not necessarily a good role model, could impact on a child's reaction to his own environment (Kjelsberg & Friestad 2009, 18-22). Hobbies and passion for a domain (art, culture, religion or others) could create subcultural groups that are specific to adolescents but not always lead to social benefits; rebellion is a known state of mind and a somewhat normal stage in young people but sometimes, it's valances such as denial, compensation or emancipation can be extreme, leading to denial of normal social and familial values exiting the healthy value standards. Delinquency could not mean breaking the law in early stages but breaking social and educational norms (school absence, psychoactive substance usage and in some cases, fraud or theft committed before the age of legal responsibility. In the late stages of deviances there is the criminal behavior, usually with more important negative aspects such as severe law breaking with aggression and severe antisocial acts (Gurev & Strulea 2014).

The common feature of all deviant behaviors is breaking the social expectations, rules and official and unofficial values and most of the pre-delinquency activity are manifesting together leading to more serious issues. The results can be organized into a chronological evolution, not necessarily for one disorder to imply the next. Recognizing early stages can also be important in corrective process, before getting to severe cases with traumatic and negative outcome for the minor (Côté, Zoccolillo, Tremblay, Nagin & Vitaro 2001, 678-684).

In order to understand more of the deviant behavior one could analyze the gravity of offences and the recurrence of antisocial activity. From this point of view, there are occasional behavioral disorders such as rebellious acts committed out of bravery or as a demonstrative reason; usually, these youngsters are under the influence of negative group effect or low parental control. These behaviors can be corrected by educational and familial support. Furthermore, there are deviant structured and recurrent behaviors, with high antisocial risk which characterize children with low adaptive skills into scholar and social environment and disrupted response to frustration and stressing elements. Recurrent deviant misbehavior is represented by severe actions with high aggression and law

breaking. These cases involve important outcomes and sanctions which will affect the legal and social aspects of the minor's life (Kaltiala-Heino 2015, 760).

Of course there are multiple ways of describing and classifying behavior disorders but in children and adolescents, the bio-psycho-social imbalance will always be the leading cause and motivation. In order to conclude a fair and objective evaluation of a young involved in legal offences it is important to separate bio-social aspects, psychology and personality in the cases of minors with full present discernment. (Moffitt 2006) Doing that will determine whether the young has acted on a transitory impulse affected by an difficult situation or a stressful external factor or the propensity for deviance resides deep in the characteristics of his personality affected by close traumatizing factors such as family, social status, material aspects or educational lack of stimuli. In cases of children, maybe not only those with damaged psychological capacity should be protected but also the one that are considered as normally developed. Recognizing the signs and pre-delinquent activity could set the corrective measures before reaching to a high risk behavior and anti-social actions (Ratner 2002, 890).

Conclusions

Responsibility represents a legal attribute of a person's psychological capacity to understand, motivate and organize his actions. Responsibility depends entirely on the discernment which is a characteristic of personality and consciousness and their dynamic relationship. The integrity of these elements is being assessed during a psychiatric forensic expertise in penalty cases that will conclude whereas the subject of the evaluation is capable of assuming and understanding a sanction for the antisocial actions he committed.

As responsibility is dependent on the stage of psychological and physiological development, in cases of minors there are very relative and debatable aspects on the subject of true existing responsibility and imputability, as they are individuals with still ongoing personal evolution and fragile mind and personality.

For those with mental deficiency, severe psychiatric pathologies or, in some cases those with affected state of consciousness at the moment of the illegal activity, protective measures can be imposed, these minors being absolved completely or partially of responsibility for their actions.

Evaluating behavioral disorders assumes, for over 14 years old minors, a complex assessment of the minor's personality, internal factors that influence their conduct and external factors that influence their response to critical situations and personal frustrations.

Comparing healthy social behavior to deviant behavior will always reveal an important social, education and familial cause so maybe, juvenile delinquency could represent not only the fault of the child but also the fault of the system and near environment. That being said, we can debate whereas the deviance and anti-social act is a response of the minor to his own problems and negative emotions and frustrations or is a representation of a failed social and educational system in those cases where family and material status cannot help with a healthy development.

Furthermore there is the problem of corrective measures for those who committed severe antisocial acts. It is a social truth that sanctioning measures and liberty deprived re-educational programs are not sufficient and certainly not effective in correcting young individuals, especially if they will return to the same negative environment or they will be stigmatized and isolated in society. Rebound to criminal offence will surely happen at some point in these cases. That being said, preventive activity, social efforts and mild educational corrective actions could increase the development to a deviant behavior in the first place, sanctions could be reassessed or at least, social and educational integration for these young individual could be encouraged for a future well adapted and highly functional adult.

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Importance of Stakeholders for Balanced Executive Compensation and Shareholder Value Maximization

Ivana Marinovic Matovic¹, Danijela Pavlovic², Jana Cvijic Rodic³

¹*Addiko Bank AD, Belgrade, Serbia, ivana.m.matovic@gmail.com*

²*Academy of Business Economics, Cacak, Serbia*

³*Belgrade Business and Arts Academy of Applied Studies, Belgrade, Serbia*

ABSTRACT: Designing of executive compensation is undergoing significant changes in contemporary business conditions. Stakeholders directly influence, with varying but strong intensity, the design and administration of compensation models. Each group of stakeholders has different, sometimes conflicting, goals. In order to achieve the right balance of interests, in terms of rewarding the highest managerial levels, shareholders, the Board of Directors, other stakeholders and managers need to clearly define goals. The paper analyzes the importance of stakeholders in the process of designing balanced executive compensations, which leads to an increase in shareholder value. The aim of this paper is to explain the importance of balancing the different stakeholders' interests in the process of designing executive compensations, in order to achieve shareholder value maximization.

KEYWORDS: executive compensation, stakeholders, shareholder value, agency problem

Introduction

Stakeholder concept contains three fundamental factors (Clarkson 1994): the organization, the other actors, and the nature of the company-actor relationships. Each of these stakeholder groups can be analyzed in more detail and divided into several subgroups, or depending on the specifics and similarities between the groups, new ones can be formed that will include one or more of already mentioned stakeholders. Stakeholders could be defined also as “any group or individual who can affect or be affected by the achievement of the organization’s objectives” (Freeman 1984).

Contrary to the classical theory that gives absolute importance to capital owners, and sees the purpose of business organization in creating value for owners, “stakeholder theory” takes into account interests of other stakeholders (Mainardes et al. 2011). In contemporary business conditions, it is clear that business organization that does not take into account employees, the environment and other issues related to socially responsible behavior, cannot count on long-term survival. At the same time, by neglecting the needs of owners and the economic effects, the demands of other stakeholders cannot be met either (Rajablu et al. 2015).

Stakeholders directly influence, with varying intensity, the design of managerial compensation and incentives (Petit-Romec 2019). The following groups of stakeholders have the strongest influence on the design of compensation systems (Ramachandran, 2008): shareholders (directly and indirectly - through their representatives on the Board of Directors, which approves the compensation model and forms the Remuneration Committee to administer the adopted model), managers, community, customers and suppliers. The interest of the community (and legislation) has been constantly increasing over time, the interest of managers is constantly high, especially because in contemporary conditions the business environment risks do not decrease but constantly increase.

Each group of stakeholders has different, sometimes conflicting, goals. Shareholders expect an adequate return on invested capital, legislation prescribes regulations to be followed, suppliers demand the widest possible market for their products and services, customers demand an adequate price-quality ratio, while managers insist on high rewards for achieving all of the above (Jensen & Murphy 1990).

The role of shareholders as the most important stakeholders

When analyzing the shareholders as one of the most important stakeholders, a distinction should be made between shareholders-investors (who are willing to buy or sell shares quickly depending on the expected short-term returns on invested funds) and shareholders-owners (who are committed to long-term business system success) (Omran et al. 2002). The value of shares is the ultimate goal for the investor and a periodic measure of business success for the owner.

The shareholders' interests, in the process of designing the managerial compensation models, are satisfied by variable incentives, depending on performances, expressed in the shares of business organization (Marinovic Matovic 2019). They require the application of compensation models based on increased value of invested capital. Shareholders oppose compensation models based on internal financial goals, rather than on performances. It is also against the interests of shareholders to sell shares without precise plans and pre-set deadlines, and to automatically replace shares with new cash benefits ("evergreen" plans) (Cheffins & Thomas 2001).

Modern business is marked by a trend of increased influence of shareholders on managerial compensation models. This trend is the result of shareholders' reaction to the general decline in stock prices, due to global financial crisis. Since 2003, public organizations in the UK have been required to respect the advisory voice of shareholders on managerial compensation packages (Mercer 2009). Although the shareholders' vote is non-binding, this decision has led to increased dialogue between management and large investors and to changes in compensation models (Mercer 2012), thus improving the alignment between pay and performances. Several other European countries have enacted laws that have given shareholders the right to vote when considering managerial compensations, in some cases binding. Shareholders in the Netherlands, Sweden and Norway have binding voting rights, while some organizations in Spain and Switzerland have voluntarily introduced shareholder advisory votes (Mercer 2012). Efforts are being made across Europe to improve the transparency of managerial compensation programs.

Following the UK, Australia introduced a non-binding, advisory shareholder voting right on managerial compensations for public organizations in 2005 (Alissa 2015). In case of negative vote, a clear message is sent to the Boards of Directors and management, prompting some organizations to change the proposed compensation programs.

US countries are significantly lagging behind in these reforms, but the increase in shareholder influence on managerial compensation systems has been noticeable in recent years. The United States and Canada have adopted new rules that provide additional information to shareholders about compensation programs (Mercer 2012). US law investigates how to combat the abuse of compensation, including the binding vote of shareholders and the restriction of certain types of rewards. In the United States, the use of certain (unqualified) deferred rewards is limited, and the deteriorating economic situation provides further incentives for widespread reform.

Designing the managerial compensation plans by Board of Directors

Due to increasingly active role of shareholders in the process of designing executive compensation plans, the Board of Directors' role is in the process of transition. In developed economies, it balances shareholders' pressure to limit rewards with the need to attract and retain talented managers (Marinovic Matovic 2019). The trend of mergers and acquisitions of business organizations has resulted in larger organizational systems. Executives need to have the skills and experience to manage an organization of large size and scope. In the conditions of increasing mobility of executives, business organizations often have to compete against foreign entities. Given the range of interests that must be met, many Boards of Directors today are diligently aligning shareholder requirements with the practical needs of business (Mercer 2012).

In contemporary business organizations, the decision making on executive compensation plans is entrusted to the Board of Directors. The significance of this delegation is the subject of numerous theoretical considerations in recent years. On the one hand, it is recognized that labor

market supply is a fundamental factor of compensation level and structure (Himmelberg & Hubbard 2000; Hubbard 2005). On the other hand, a number of scholars argue that delegation of decision making to the Board of Directors has a crucial impact on executive compensation (Chhaochharia & Grinstein 2009). Fama (1980) and Fama & Jensen (1983) concluded in their research that compensation decisions should be made by outsider directors, so their resolutions would be independent. Managers have great influence on directors' appointment, so compensations could not be monitored qualitatively in US business organizations (Jensen, 1993). Lack of monitoring by Board of Directors can lead to suboptimal contracts and inadequate managerial compensations (Bebchuk and Fried 2003; 2004). Higher compensations received by Board of Directors would lead to their greater engagement in designing CEO compensation (Spatt 2006).

The Board of Directors expects the recommendations regarding the executive compensation program, given by Remuneration Commission, to be adopted with possible minor modifications (Newman & Mozes 1999). The role of Remuneration Commission is to determine the executive compensation program, or to make partially binding recommendations to Board of Directors (Hengartner 2006). Remuneration Commission typically researches market levels of executive compensation, establishes performance standards and compensation policies, and assesses managers' contribution to financial and non-financial goals, and that depend on managers, their cooperation and advice (Crystal 1991). Although top management is not usually involved in the work of Remuneration Commission, it can sometimes attend their meetings. If no Remuneration Commission has been established within the Board of Directors (which is characteristic of Boards with a small number of members), then Board determines compensation plan for the highest level of management. Remuneration Commission uses the services of external agencies or consultants to determine market levels of executive compensation. Agencies (consultants) compare compensation levels and structures within organizations of similar size and industry, and make recommendations to the Board of Directors. There is also a practice, in some organizations, that internal audit revises the process of designing compensation system, and submits a report to the Board of Directors (Hengartner 2006).

Remuneration Commission usually consists of three to four members, who are also members of the Board of Directors, and they are serving a one-year term. Most members, sometimes all, are not part of the management team and have an independent status. This composition should ensure the objectivity of Remuneration Commission. However, it is not uncommon for Executive Board members and top managers to attend meetings of the Commission, without the right to vote. Human resources department directors may from time to time act as Commission Secretary. In addition, internal or external experts in the field of compensation may from time to time make oral and written presentations, if deemed necessary. Remuneration Commission meets less frequently than the Board of Directors, usually two or three times a year, unless circumstances require otherwise (Hengartner 2006).

Global financial crisis, which began in late 2008, highlighted the need for Commission's discretionary influence on defined short-term and long-term incentive plans (Ferrarini et al. 2015). Discretionary influence and decision-making are required due to failures in the process of setting goals, the emergence of unforeseen circumstances, and the volatility of business performance. Excessive rewards for inadequate performances will lead to strong oversight, cash outflows, dilution of shareholder value and, worst of all, risk of maintaining business solvency. Low reward, given for outstanding performance, will result in a loss of engagement with talented managers, and may jeopardize organization's core business.

Remuneration Commission should clearly define the critical activities of highest management level, necessary for business improvement. Then it is necessary to regularly evaluate managers' performance, comparing them with the defined competencies. Commission should identify development activities in areas that require improvement, as well as determine responsibility for their implementation. In addition, Remuneration Commission must approach the succession plan with full understanding - identify potential candidates for top management positions, their strengths and weaknesses, and assess the right time to take the lead. Following are the ten questions which

Remuneration Commission should be analyzing, for making informed decisions on policy and implementation of managerial compensations (Institute of Directors in South Africa 2020).

Table 1. 10 questions which cover the policy and implementation of CEO compensation

Section	Questions
1. Structure	Do we understand all the reward structures in operation, how they operate and how they interact with each other? Which reward structures are in place? How do these structures broadly operate, how were they determined and what is the range of likely outcomes? Are they appropriate?
2. Alignment	Do we have a clear understanding of the organisation's strategic objectives and value drivers, and how remuneration is aligned? Are all the important strategic objectives captured in variable pay schemes? Are the scheme targets aligned to strategic objectives?
3. Risk management	Do we have the correct set of tools in order to mitigate risk in the remuneration system? Malus provisions Clawback provisions Minimum shareholding requirements (MSR) Post vesting holding periods Maximum/ceiling payouts The remuneration committee's discretion
4. Fair and responsible	Are we regularly assessing the fairness of pay, how responsible are our policies and practices and how do our pay practices impact on the dignity of our employees? Stakeholder alignment Benchmarking Pay ratios Pay gaps Gini coefficient Living wage
5. Innovation	Do we understand the needs of all stakeholders and innovate policy and practice changes as circumstances demand?
6. Variety	Has the remuneration committee actively sought inputs from a variety of sources before making final decisions?
7. Evaluation	Has the remuneration committee been thorough in its interrogation of performance outcomes?
8. Disclosure	Have we appropriately considered what is and what is not disclosed in terms of remuneration?
9. Appropriateness	Are the remuneration outcomes appropriate and have we exercised appropriate discretion where necessary?
10. Achievement	Does the remuneration policy and implementation of policy achieve the stated objectives?

Source: Institute of Directors in South Africa (2020).

10 questions a remuneration committee should be asking, Position paper 9, p.30.

Continuous monitoring of top management creates a direct benefit for business organization, and provides insight into their treatment in terms of deciding on adequate compensation model.

The influence of customers, suppliers and the community on the process of designing managerial compensation

Until recently, customers did not have a direct impact on the managerial compensation design process. However, their decision to buy or not to buy a particular product or service affects profitability, which in turn affects short-term and long-term incentives, as components of managerial compensation. Some contemporary business organizations use the evaluation of products and services by customers as a significant factor in creating short-term incentive plans.

The quality, price and availability of products and services of suppliers have a direct impact on the financial success of business organization, and thus on the managerial compensation. Although suppliers are looking for long-term, predictable business relationships, this group of stakeholders is showing little interest in executive compensation packages.

The community is a significant stakeholder that requires the business organization to provide high taxable income. While this requirement is being respected, the community is showing low interest in executive compensation.

Conclusions

In order to achieve the right balance of interests, in terms of rewarding the highest levels of management, shareholders, the Board of Directors and managers need to clearly define goals, roles and responsibilities. The positive consequences of the increased shareholders' influence on compensation system are reflected in enrichment and innovation, through the inputs of investors and their experience. Compensation system is strongly associated with performance, transparency is increased and excessive incentives are suppressed. Negative consequences of the increased shareholders' influence on compensation system are reflected in their demands for harmonization of shareholder's value and compensation plans, but without unnecessarily complex organization of actions.

The Board of Directors should carefully balance the shareholders' interests with the strategic and operational objectives of business. It should promote stronger communication between managers and shareholders. Decisions concerning executive compensation are made by Board of Directors (according to recommendations received from the Remuneration Commission). However, Commissions do not have adequate information, they do not have the necessary expertise or negotiation skills necessary in conversations with managers. This results in poorly designed compensation programs and practices.

Changes in managerial compensation design have improved the link between the reward and the performances achieved, but there is still plenty of room for improvement. In order to significantly improve the rewarding according to achieved results, it is necessary to determine the right measures of realized performances. Without an adequate performance measurement system, it is impossible to assess the justification of management compensation programs.

Managerial compensation systems have undergone major changes in contemporary business conditions, such as increased focus on the variable reward, greater use of capital-based performances, elimination of oversized benefits and perquisites, imposition of limits on non-performance based pay, and greater diversification of compensation packages. These changes are driving managerial compensation systems in the right direction. With rise of variable rewards share in total compensation package, and with linking pay to performance, executive compensation models are becoming increasingly balanced, accountable, and justified, which leads to an increase in shareholder value.

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Jurisprudential Analysis in Matters of Discrimination. Jurisdictional Competence of the National Council for Combating Discrimination

Adina Georgeta Ponea

Associate professor PhD, Faculty of Law, University of Craiova, Romania, email: adina.ponea@yahoo.com

ABSTRACT: Any person who considers himself discriminated against may refer to the National Council for Combating Discrimination which will investigate the alleged acts of discrimination and decide on their existence or non-existence. According to its legal consecration, the Council is the state authority in the field of discrimination, under parliamentary control and at the same time it is a guarantor of the observance and application of the principle of non-discrimination, in accordance with the domestic legislation in force and international documents to which Romania is a party. The jurisdictional activity of the Council, finalized with the pronouncement of a decision, can be censored by the administrative contentious court which, re-evaluating the administered evidence, will rule on its legality and validity.

KEYWORDS: principle of non-discrimination, forms of discrimination, disadvantaged category, equal opportunities, contentious administrative

The normative framework

In the matter of discrimination, the Romanian legislation contains as a benchmark the Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination, published in the Official Monitor no. 166 of March 7, 2014, normative act transposing the European directives.

Article 27 of the Government Ordinance no. 137/2000 republished, expressly provides the situations in which it has applicability regulating, on the one hand, the possibility of the person considered to be discriminated to notify a body with jurisdictional competences created specifically for this purpose, respectively The National Council for Combating Discrimination (hereinafter referred to as N.C.C.D.), and on the other hand, the right of the same possible discriminated person to address directly to the court of justice – of common law or specialized - with an action for damages resulting from the finding of the state of discrimination.

So, the finding of the existence of a discrimination in the exercise of the rights provided by art. 1 para. (2) of Law no. 137/2000 republished on the prevention and sanctioning of all forms of discrimination, belongs both to the courts of justice (related to the application of civil sanctions, giving compensation, restoration of the situation prior to the discrimination or annulment of the situation of discrimination) and/or the National Council for Combating Discrimination (related to the application of contravention sanctions).

Thus, according to art. 20 of the Ordinance no. 137/2000, the person who considers himself discriminated may notify the Council within one year from the date of committing the act or from the date on which he could become aware of its commission.

At the same time, art. 27 of the same law, stipulates that the person considered to be discriminated may file, before the court, a request for compensation and restoration of the situation prior to discrimination or cancellation of the situation created by discrimination, according to common law.

Therefore, when the person who considers himself discriminated addresses directly to the court and formulates an action for granting compensation and restoring the situation prior to discrimination or annulment of the situation created by discrimination, against the discriminator, unconditionally if he notified before the National Council for Combating Discrimination, the action is directed strictly against those guilty of discrimination and not against the institution empowered to establish discrimination.

In order to strengthen the reasoning previously exposed, related to the interpretation and application of the provisions of art. 27 of O.G. 137/2000, the High Court of Cassation and Justice, the panel competent to judge the appeal in the interest of the law, admitted the appeal in the interest of the law and, consequently, established that: “In interpreting and applying the provisions of article 27 para. (I) of Government Ordinance No. 137/2000, on the prevention and sanctioning of all forms of discrimination, republished, the court competent to resolve claims for damages and restore the situation prior to discrimination or cancel the situation created by discrimination is the courthouse or tribunal, as appropriate, as courts of civil law, in relation to the object of the investment and its value, except for applications in discrimination in the context of legal relations governed by special laws and in which the protection of subjective rights is achieved before special jurisdictions, cases in which the requests will be judged by these courts, according to the provisions of the special laws The role of the provision provided by art. 27 para. (1) of the Government Ordinance no. 137/2000 was to always ensure the existence of a way to have access to the court to report cases of discrimination. If such a path already exists at the level of the special law regulating social relations belonging to other branches or areas of the law in the context of which discriminatory behaviour has manifested, the special law will apply as a matter of priority, in all respects, both in terms of substance and form conditions to which the action will be submitted, as well as the competent court. Government Ordinance no. 137/2000 did not create a special form of liability given by the reason or criterion of discrimination and did not establish a special jurisdiction for the cases having as object the sanctioning of discriminatory behaviours, in order to understand that it has attributed a material competence to resolve such disputes, referred even to the courts of common law, with the sacrifice (or violation) of the special material powers existing in the legislation”.

The notion of discrimination

According to the provisions of art. 2 para. (1) of Government Ordinance no. 137/2000, “discrimination” means any distinction, exclusion, restriction or preference, based on race, nationality, ethnicity, language, religion, social status, belief, sex, sexual orientation, age, disability, chronic non-contagious disease, HIV infection, belonging to a disadvantaged category, as well as any other criterion that has as its purpose or effect the restriction, removal of the recognition, use or exercise, on equal terms, of human rights and fundamental freedoms or rights recognized by the law, in the political, economic, social and cultural field or in any other field of public life”. In the Romanian and European doctrine and jurisprudence, it has been shown that there is an act of discrimination when: a person is treated unfavourably, compared to the way other people were or would be treated, in a similar situation, the reason this treatment being a concrete characteristic of people, a characteristic that falls into the category of “protected criterion” (Chiriță 2012, 32). As noted by the High Court of Cassation and Justice, the Panel for resolving legal issues in Decision no. 1 of January 18th 2016, “for the existence of discrimination, the following conditions must be cumulatively met: a) the existence of a differentiated treatment manifested by: any difference, exclusion, restriction or preference; b) the existence of a discrimination criterion, such as those listed by way of example in the legal definition of discrimination; c) the existence of a causal relationship between the discrimination criterion and the differentiated treatment; d) the purpose or effect of the differentiated treatment shall be the restriction, removal of the recognition, use or exercise, on equal terms, of human rights and fundamental freedoms or of a right recognized by the law; e) the persons or situations in which they find themselves are in comparable positions; f) the differentiated treatment should not be objectively justified by a legitimate aim, the achievement of which is done by adequate and necessary methods.

The causal relationship between differential treatment and the criterion of discrimination presupposes the demonstration of the fact that the alleged victim was treated less favourably than other persons in a similar situation because he has a characteristic which falls within the notion of “protected criterion”: race, nationality, ethnicity, language, religion, social category, beliefs, sex,

etc., or any other criterion whose purpose or effect is that provided by legal provisions (restriction, removal of recognition, use or exercise, on equal terms, of human rights and fundamental freedoms or the rights recognized by the law, in the political, economic, social and cultural field or in any other field of public life)”.

As a result, it is fair the qualification given in the jurisprudence to the notion of discrimination, namely that of illicit act likely to involve the tortious civil liability of its author. As a result, discrimination is a cause of illegality which, materialized or transposed into a legal fact, determines its qualification as illegal, while manifested at the level of legal acts, induces their illegal character. In both cases, the legal nature of the liability it entails is specific to the legal relationship in which the discriminatory behaviour is manifested (Gheorghe 2007, 89).

The doctrine noted that “discrimination is a different treatment for different people or groups in identical or very similar situations. The different treatment is based on an explicit or hidden characteristic (adjective). Discrimination is based on an attitude, which is often formed on a feeling or a complex of feelings, but it is much more than an attitude. Discrimination is a behavior, which targets the action, the social praxis, reason for which it has consequences, repercussions, through its select character” (Banton 1998, 135; Burtea 2014, 180).

National Council for Combating Discrimination

For the prevention, mediation, investigation, finding and sanctioning with contravention the acts of discrimination, an autonomous body was established, invested with state authority, having legal personality and under the control of the Parliament, respectively the National Council for Combating Discrimination, a body whose jurisdictional powers have also been recognized.

The activity of investigation and ascertainment of the Council is finalized by issuing a decision that may or may not establish the existence of the alleged act of discrimination, while its sanctioning attributions implement the contravention liability, when applicable.

According to the Decision of the Constitutional Court no. 481 of November 21st, 2013 “the jurisdictional function is characterized by the establishment of the power of the jurisdiction body to say the right, to resolve by a judgment vested with the power of *res judicata* a conflict regarding the extent of subjective rights and to dispose, under the law, restrictive measures”; through the activity of jurisdiction “litigious cases” are solved and “violations” of the law are sanctioned. Therefore, according to the jurisprudence of the constitutional contentious court, the NCCD’s activity of investigating and sanctioning the alleged acts of discrimination has a jurisdictional character, so this body, in exercising this competence, is an administrative jurisdiction.

On the other hand, according to the provisions of art. 18 of the Government Ordinance no. 137/2000, the National Council for Combating Discrimination in exercising the role of “guarantor of compliance and application of the principle of non-discrimination”, is responsible for the application and control of compliance with the provisions of this law in its field of activity, as well as harmonization of the provisions from the normative or administrative acts contrary to the principle of non-discrimination”. Furthermore, art. 19 para. (1) let. (c) and art. 20 as a whole govern the judicial role of the Council, which has as its purpose, as it has been shown, “the removal of discriminatory acts and the restoration of the situation prior to discrimination”. Finally, it should not be omitted that art. 2 para. (3) of the same ordinance stipulates that “apparently neutral provisions, criteria or practices that disadvantage certain persons [...]” are discriminatory.

In this context, it appeared the question of the extent to which the Council's attribution to act in order to harmonize the provisions of the normative acts, which contravened the principle of non-discrimination, violated the constitutional principle of separation and balance of powers in the State, because, to the extent to which discriminatory situations which have their source in the content of legal provisions or contained in administrative acts with a normative character, would

have been found, the decision of the Council might have as an effect the termination of the applicability of these provisions. It is also shown that in this way the constitutional principle regarding the exclusivity of the administrative contentious courts competent to ensure the legality control of the administrative acts of the public authorities is violated, given the fact that, in this case, by the Council decision was found to be discriminatory provisions contained in an administrative act with normative character. The Constitutional Court, by Decision no. 997 of October 7, 2008 states that “the provisions of art. 20 para. (3) of Government Ordinance no. 137/2000 are unconstitutional in the termination of the applicability of these provisions insofar as they are interpreted in the sense that it grants the National Council for Combating Discrimination the power to, within its jurisdictional activity, to cancel the text of normative acts with discriminatory character and even replace this text with provisions contained in other normative acts. The Court noted that this body may find that there are discriminatory legal provisions and may express its opinion regarding the harmonization of the provisions of the normative or administrative acts with the principle of non-discrimination. As regards the effects of the Council’s opinions on the harmonization of provisions contained in normative or administrative acts with the principle of non-discrimination, the Court has held that, in such cases, the Council’s judgment cannot have the effect of termination of those provisions or applying other texts of law, by analogy, which do not refer to discriminated persons. ... The role of the Council is limited, in these situations, to the possibility of finding the existence of discrimination in the content of some normative acts and to the formulation of recommendations or notifications sent to the competent authorities to amend the respective legal texts.”

Short jurisprudential review

1. By the sentence no. 195 / 25.04.2016, Craiova Court of Appeal - The administrative and fiscal contentious section, retained the following:

“The plaintiff, the mayor of the city C. invested the contentious court with appeal against Decision no. 252/2014 pronounced by the National Council for Combating Discrimination which held that by passive behavior, unjustifiably disadvantages a group of people, people with disabilities and violates the provisions of Law no. 448/2006. Before the Court, the applicant does not deny and does not rightly dispute that he owns the number of buses and trams retained in the Council judgment and nor the number of those not adapted to the conditions suitable for public transport for people with disabilities. However, it seeks, through an erroneous reasoning, without legal basis, to show that, since the norm of art. 22 of the law refers to the obligation to adapt for the old means of public transport, prior to the law, only within the limits of the technical possibility, it results that the non-adaptation found at present would be equivalent to the non-existence of the contravention. The Court also notes that the applicant does not concretely support or justify by conclusive evidence a possible technical impossibility of adapting certain means of transport individually and does not even specify how old the means of public transport are and that they are impossible to adapt for technical reasons and how many of them are new and adapted to the law. In such a situation, within the limits of the legal framework in which it was invested, the Court notes that these criticisms do not constitute grounds for the illegality of the administrative act. On the other hand, the applicant also alleges, as a ground for the illegality of the act, the lack of guilt in committing the contravention. He states that the lack of guilt would result from the fact that measures have been taken to equip the means of public transport with ramps and that public procurement procedures have been started. Criticisms are not grounds for illegality, as long as they are not conclusively and pertinently proven. However, the partial measures to which the applicant refers do not lead to the denial, reversal of the facts of the case. Moreover, the applicant himself, at the end of the action, concludes that he cannot withdraw all the means of transport from circulation in order to adapt them, which is equivalent to acknowledging the state of fact retained in the judgment. The Court also notes that even in the

case of a partial or ongoing adaptation, relevant for the existence of the contravention is the fact that the obligation is imposed on local authorities for a reasonable period of time, sufficient for taking and implementing concrete adaptation measures.

Because the Court notes that the contested judgment was adopted in accordance with the procedure laid down in O.G. no. 137/2000, that it is not identified among the criticisms presented by the plaintiff reasons of illegality and seeing the dispositions of art. 18 of Law no. 554/2004, will reject the appeal as unfounded.”

2. By the sentence no. 223/18.05.2015, Craiova Court of Appeal - The administrative and fiscal contentious section retained the following:

“By Decision no. 734/10.12.2014 of the National Council for Combating Discrimination, it was ruled that the facts related to "not granting the end-of-year bonus to a number of 29 union leaders engaged in the production process with positive evaluation and granting this right to employees who had lower evaluations "constitute discrimination according to the legal provisions and it was ordered to sanction the complained party with a contravention fine.

The court held that the procedure held before the N. C.C.D. is governed by the provisions of O.G. no. 137 of 2000, which provides, at art. 20 para. 6, that the person concerned will present facts on the basis of which the existence of direct or indirect discrimination can be presumed, and the person against whom the referral was made has the task of proving that there has been no violation of the principle of equal treatment. Any means of proof may be invoked before the Council in compliance with the constitutional regime of fundamental rights, including audio and video recordings or statistical data. Therefore, the law establishes a relative presumption of discrimination, the defendant having the task of proving that the alleged facts are not acts of discrimination according to the law. However, in the present case, the plaintiff did not prove before the court the evidence contrary to those retained by the defendant N.C.C.D. and claimed before him by the petitioner. The claims according to which the end-of-year bonus granted to some employees was approved according to the Decision of the Management Board no. 85/16.12.2013, being intended for employees who directly contributed to the good results of the company, nominated by the branch management/subunits, according to the activity notes, are also unfounded.

In this regard, the Court notes that by the contested judgment in question, the defendant N.C.C.D. noted that the premiums were not granted on the basis of an assessment, that no FNME trade union member had received a premium, and that although the applicant claims that the basis for awarding the premiums is the result of the evaluations, they were not submitted to the case file. Neither before the N.C.C.D., nor before the court, the plaintiff S.C. CEO SA did not criticize in this respect, and did not submit to the file the evaluations of the persons who received bonuses, as well as those of the 29 union leaders, in order to prove contrary to those supported by the trade union federation and to overturn the relative presumption of discrimination established by the law.

The applicant further argued that it was not possible to speak of a fundamental right recognized by law and guaranteed by the Constitution, the right to be awarded, but only of a possibility recognized by law to the employer to award prizes. Also this criticism is unfounded, as long as the concrete conditions in which the bonuses were granted (which are social rights other than those representing the salary, provided by the collective labor contract) were likely to lead, for the reasons expressed above, to outlining an act of discrimination.

The applicant claimed that there was no connection between the method of granting bonuses and the membership in a trade union, only the activity of an employee being relevant. These criticisms cannot be upheld as long as they have not been proved in any way by the applicant, and the employees' evaluations have not been submitted to the file.

For these reasons, the plaintiff's criticisms being unfounded, it was correctly held by the contested decision that the differentiated granting of bonuses, based on the criterion of union membership, constitutes an act of discrimination according to art. 2 para. 1 and art. 7 let. c of OG

no. 137 of 2000, (the violated right consisting in other social rights than those representing the salary, related to the development of contractual labour relations, within the meaning of art. 7 let. c of OG 137 of 2000). At the same time, it was correctly ordered the sanctioning of the plaintiff SC Complexul Energetic Oltenia SA through his legal representative with a fine in the amount of 2000 lei according to disp. art. 26 para. 1 of OUG no. 137 of 2000”.

3. By the sentence no. 121/14.07.2020 the Craiova Court of Appeal - The administrative and fiscal contentious section retained the following:

“By Decision no. 935/2019 issued by the National Council for Combating Discrimination, it was established the existence of a differentiated, discriminatory treatment according to art. 2 par. 1 and art. 7 let. a) of O.G. no.137/2000 on the prevention and sanctioning of all forms of discrimination, republished, regarding the rejection of the request to keep the petitioner employed and the approval of the request to keep employed and the approval of the request to keep employed a male colleague. The Regional Directorate of Public Finance C. was sanctioned with a warning, with the recommendation for the applicant to avoid similar discriminatory situations in the future.

The Court found that the conditions provided by law for finding a state of discrimination were met in the case in question as the defendant F.E. argued, in essence, that she had been discriminated against by the applicant D.G.R.F.P. C. by ordering her dismissal for the age limit of 61 years only because she is a woman. It was also claimed by the petitioner that she wished to continue working under the same conditions as regards the retirement age conferred by national law on men, that of 65 years old, with the possibility of extension on request, formulated annually by them, until the age of 68 years (Athanasiu 2020, 44; Anghel 2016, 20).

As such, the National Council for Combating Discrimination was judiciously able to retain a criterion, implicitly to establish a causal relationship between the criterion prohibited by the normative act and the alleged differential treatment to which the defendant would have been subjected, according to the provisions of art. 2 par 1 of OG no. 37/2000.

In this case, by the Decision no. 88/01.03.2019, pronounced by the Mehedinti Tribunal - Second Civil Section, of administrative and fiscal contentious in the file no. 2731/101/2018, the court “admitted in part the action of Ms. FE as amended and cancelled the address no. CRR-REG 31510/01.11.2018 issued by D.G.R.F.P. C. It cancelled the decision no. 3540/20.12.2018, issued by the defendant and ordered her reinstatement in the position of execution counsellor class I, superior professional degree, grade 5 at the Fiscal Inspection Service Legal Entities 3 - Craiova County Administration of Public Finances. The defendant was obliged to pay her monetary compensations equivalent to the salary rights and bonuses she would have received between 02.01.2019 - 22.01.2019.

The provisions of Community law, which take precedence over national law, are directly applicable in this case. As of 1st of January 2007, Romania is a member state of the European Union, and according to art. 148 of the Constitution, as a result of accession, the provisions of the constitutive treaties of the European Union, as well as the other obligatory community regulations, have priority over the contrary provisions of the internal laws, respecting the provisions of the accession act (paragraph 2), and the Parliament, the President of Romania, the Government and the judicial authority guarantee the fulfilment of the obligations resulting from the act of accession and from the provisions of paragraph 2 (par 4).

In fact, by Law no. 157/2005 ratifying the Treaty of Accession of Romania and Bulgaria to the European Union, our state has assumed the obligation to comply with the provisions of the original treaties of the Community, before the accession.

By Decision Costa/Enel (1964), the CJEU ruled that a law departing from the Treaty - an independent source of law - could not lead to its annulment, given its original and special nature, without depriving it of its character of Community law and without questioning the legal basis of the Community itself. Moreover, the same decision defined the relationship between Community

law and the national law of the Member States, stating that Community law is an independent legal order which has priority of application even before subsequent national law - or, in this case, the pollution tax was introduced in domestic legislation only in 2008.

Also in *Simmenthal* case (1976), the CJEU ruled that the national judge is obliged to apply the Community rules, directly, if they contravene domestic rules, without requesting or waiting for their removal by administrative or other constitutional procedure.

The plaintiff's defense, in the sense that the defendant held a public position, thus being applicable the provisions of Law no. 188/1999, the legal basis of the termination of the employment relationship being art. 98 para. 1 let. d., although it is real, it is not likely to lead to the conclusion of the illegality of the contested judgment, given that the N.C.C.D. correctly noted that, by Decision 387 of 5.06.2018, published in the Official Monitor no. 642/24.07.2018, the Constitutional Court admitted the exception of unconstitutionality of the provisions of art. 56 para (1) letter c) first sentence of Law no. 53/2003 - Labor Code, but that the arguments of the constitutional court are fully applicable in this case, compared to the similarity of the regulation applicable to civil servants with that of the Labor Code.

Thus, in a correct manner, the N.C.C.D. noted the considerations of the Constitutional Court in the sense that "this interpretation is within the meaning of the European regulations, as is clear from the case law of the Court of Justice of the European Union". Thus, the Court notes that, "according to article 14 para. (1) let. (c) of the Directive 2006/54/EC, any direct or indirect discrimination on grounds of sex in the public or private sectors, including public bodies, is prohibited, concerning: [...] (c) employment and working conditions, including conditions of dismissal, and remuneration as provided for in article 141 of the Treaty. As noted above, a similar regulation was also found in Directive 76/207/EEC. Judgment of 26 February 1986 in case *MH Marshall against Southampton and South-West Hampshire Area Health Authority (Teaching)*, paragraph 38, Judgment of 18 November 2010 in *Pensionsversicherungsanstalt against Christine Kleist*, paragraph 28, and Ordinance of 7 February 2018, delivered by the Luxembourg Court in related cases *Manuela Maturi, Laura Di Segni, Isabella Lo Balbo, Maria Badini, Loredana Barbanera against Fondazione Teatro dell'Opera di Roma*, and *Fondazione Teatro dell'Opera di Roma against Manuela Maturi, Laura Di Segni, Isabella Lo Balbo, Maria Badini, Loredana Barbanera, Luca Troiano, Mauro Murri (C-142/17)* and *Catia Passeri against Fondazione Teatro dell'Opera di Roma (C-143/17)*, paragraph 28, the European Court of Justice stated that a general dismissal policy which involves dismissing an employee only on the grounds that she has reached age which gives her the right to retire for the limit of age, which, according to national law, is different for men and women, constitutes discrimination on grounds of sex, prohibited by the provisions of the said directives.

Ruling in this regard, the Court of Justice of the European Union has taken into account national rules comparable to those examined by the Constitutional Court in the present case.

Thus, for example, in the judgment given in the case *Pensionsversicherungsanstalt against Christine Kleist*, the European court considered the compatibility of the Austrian national rules on the setting of different retirement ages for women in relation to men and the possibility of persons being dismissed at the time when they have acquired the right to retire for the limit of age.

Even if in the cases before the Court of Justice of the European Union the termination of employment was the result of dismissal and not the operation of law, it was based on national legal regulations and was not a mere discretion of the employer, so that, in the opinion of the Constitutional Court, the reasoning retained by the European court are applicable, *mutatis mutandis*, also to the provisions subject to constitutional review in the present case."

From the corroborated interpretation of the existing documents in the file, it is noted the existence of a discriminatory treatment according to art. 2 para 1 and art.7 let a of O.G. no. 137/2000, regarding the rejection of the request to keep Mrs. F.E. and approving the request to continue working filed by a male colleague.

So, correctly, the N.C.C.D. considered that there was a causal relationship between the petitioner's complaint and the different treatment in response to this approach and proceeded to sanction the applicant D.G.R.F.P. Craiova, with a warning, for the facts provided by art. 7 let a) of O.G. no. 137/2000 republished, according to art. 7 of O.G. no. 2/2001, with the recommendation to avoid similar discriminatory situations in the future.

For the reasons shown above, the Court finds that the adoption of Decision no. 935/2019 was made in accordance with the procedure regulated by O.G. no. 137/2000 and that it is not identified among the defenses of the plaintiff reasons of illegality that would attract the annulment of the decision. Consequently, based on the art. 8 and 18 of Law no. 554/2004, the action brought before the court will be rejected, being considered as unfounded''.

4. By the sentence no. 133/15.03.2011 the Craiova Court of Appeal - The administrative and fiscal contentious section, retained the following:

“According to art. 1 let c of Law no. 119/2010, the service pensions of the specialized auxiliary personnel of the courts of justice and of the prosecutor's offices, established on the basis of the previous legislation, became pensions within the meaning of Law no. 19/2000, regarding the public pension system and other social insurance rights. According to art. 3 para. 3, within 15 days from the date of entry into force of the law, the methodology for recalculating the pensions provided in art. 1 shall be elaborated, which shall be approved by decision of the Government. Thus, it was given the HG no. 737/2010, contested in the present case.

Thus, it is noted that the law, the normative act with superior force refers to the elaboration and adoption of the normative act with inferior force, in the execution of the law, within the meaning of art. 2 paragraph 1 letter c of the LCA, respectively HG no. 737/2010.

The administrative contentious court is required to verify only the concordance between the administrative act subject to its analysis, respectively HG no. 737/2010, with normative acts with superior legal force, respectively Law no. 119/2010, based on and in the execution of which it was issued, taking into account the principle of hierarchy and legal force of normative acts, enshrined in art. 1 par. 5 of the Constitution and art. 4 par 3 of the Law no. 24/2000, regarding the norms of legislative technique.

All the arguments brought by the plaintiff have in view the “illegality” of Law no. 119/2010, the legal act with superior force in the execution of which the contested decision was issued in the present case, respectively art. 1 let c, both in relation to the older practice of the Constitutional Court, to the separate opinion of a judge of the Court, as well as to the community regulations and the jurisprudence of the ECHR. The court cannot analyze the legality of a law issued by the Parliament and which was established constitutionally in the a priori control procedure by the RCC, because its attribution is to apply the law, and not to create the law according to the will of the litigants. However, if the domestic law contradicts with the provisions of the EU and the ECHR, the court has the obligation to leave the domestic law unapplied (Simental II, Carbonnara Ventura C Italy) and to order the necessary measures based on the principle of supranational norm priority.

In this sense, the decision no. 873 pronounced in the procedure of the a priori constitutionality control by the CCR, in which the constitutionality of art. 1 of Law no. 119/2010 was established. The separate opinion invoked by the plaintiff has no legal effects in the sense of the unconstitutionality of this article, the decision being pronounced validly and legally by majority.

Indeed, the RCC has ruled that the removal of magistrates' service pensions is unconstitutional, for reasons of magistrate's statute, but discrimination between maintaining special pensions for magistrates and removing them for the auxiliary judicial staff cannot be retained, as is the case with the applicant, because the two professional categories are not similar, regardless of the incompatibilities to which the clerks are subject to.

The court does not have the opportunity to review the considerations of Decision no. 873/2010 of the RCC, which like the reasoning are generally mandatory, nor to verify its compatibility with the previous practice of the Court, invoked by the plaintiff, in the field of art. 15 and 16 of the Constitution, as long as only the RCC can return to a previous practice.

Regarding the decision no. 874/2010, CCR ruled on the reduction of the amount of pensions, as a form of social insurance benefit paid monthly [art. 7 par. (2) and art. 90 par. (1) of Law no. 19/2000] under the law, inherent and inextricably linked to the quality of pensioner, obtained on the basis of a retirement decision, in compliance with all legal provisions imposed by the legislator. The right to social insurance is guaranteed by the state and is exercised, under the conditions of the mentioned law, through the public pension system and other social insurance rights. It is organized and operates, among others, on the principle of contributivity, according to which social insurance funds are established on the basis of contributions due from individuals and legal entities participating in the public system, social insurance rights being due under the paid social security contributions [art. 2 let e) of Law no. 19/2000]. This means that the pension, as a benefit from the public pension system, falls under the principle of contributivity.

Also, considering the arguments shown above, the retroactive application of the law cannot be retained, taking into account the considerations of the RCC from the decision no. 873/2010 and the legal nature of the right to pension established based on the principle of contributivity, according to the mandatory considerations of decision no. 874/2010 RCC.

With regard to the plaintiff's allegations of violation of the provisions of the ECHR, the court takes into account both the RCC's considerations and the explanations in the Government's explanatory memorandum. Thus, the court notes that the plaintiff benefits from an asset within the meaning of the ECHR in terms of his right to a pension. The recalculation is interference by the state. The justification is given by the principle of contributivity that RCC has established as constitutional, as well as by the commitments assumed by the Romanian state in the conditions of economic crisis together with the loan agreements concluded with the international financial bodies. Therefore, the reduction of the pension difference borne by the state, above the level determined based on the applicant's contribution to the public pension system, falls within the state's discretion in conditions of major public interest, the management of budgetary resources in crisis. Therefore, the measure is proportionate to the gravity of the situation which determined it, it is applied in a non-discriminatory manner and does not affect the existence and the right to a pension. The calculation of the plaintiff's pension on the criterion of contributivity does not represent a suppression of the person's pension, in order to consider it a violation of art. 1 Protocol 1 ECHR.

Also, the court does not consider the violation of the community norms invoked by the plaintiff, for the arguments shown above and takes into account the arguments of the RCC which also ruled that the scope of the notion of earned right includes the amount of pension, established according to the principle of contributivity, as is the situation of the plaintiff by applying the contested decision.

The claim of the plaintiff in the sense that his service pension was established by a decision issued by the County House of Pensions O. and the recalculation is not applicable to him, cannot be retained, because a new law can bring changes to previous laws, on which the issuance of the decision was based at that time. This legislative dynamic cannot be considered as leading to the inefficiency of some decisions issued by an administrative authority. Moreover, art. 68 of the Law no. 567/2004, regarding the right to pension of the auxiliary personnel of justice, was abrogated by the Law no. 263/2010 regarding the unitary system of public pensions.

For these factual and legal arguments, the court considers that HG no. 737/2010 art. 1 let c-h does not violate the normative acts with superior legal force, including Law no. 119/2010, based on and in the execution of which it was issued, taking into account the principle of hierarchy and legal force of normative acts and consequently, it decides to reject the plaintiff's action".

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Overambition as Disability: Discrimination of Excellence

Julia M. Puauschunder^{1,2}

¹*The New School, Parsons School of Design, Department of Economics, 6 East 16th Street, 9th floor 89, New York, NY 10003, USA, Julia.Puauschunder@newschool.edu, T 001 212 229 5700, F 001 212 229 5724, www.juliampuauschunder.com*

²*Columbia University, Graduate School of Arts and Sciences, Julia.Puauschunder@columbia.edu, http://blogs.cuit.columbia.edu/jmp2265*

ABSTRACT: This paper draws attention to discrimination of excellence in order to propose an inequality alleviation strategy in connecting overachievers with discriminated-against minorities. Discrimination of excellence is the unjust treatment of outperformers and overachievers. Defining discrimination of excellence and describing the implicit mechanisms of aversion against excellence depicts overambition as handicap. Overambition may thereby become a disability. This article first introduces the concept of discrimination of excellence, to then draw inferences about overachievement being comparable to a disability. Lastly, discrimination of excellence alleviation strategies are proposed.

KEYWORDS: Aversion against excellence, Disability, Discrimination of excellence, Inequality, Justice, Outperformance, Overambition

Introduction

Discrimination of excellence is the unjust treatment of outperformers and overachievers or followers that have the potential to one day become better than leaders. Discrimination against outperformers includes the critique of unfair treatment in non-merit-based admissions practices, degree conferral or promotion standards. Unfair treatment of outperformers occurs when focusing away from merit or biases lead to economic inefficiency or suboptimal choice in the wake of intransparent, arbitrary or nepotistic decision-making. Discrimination against excellent students during admissions is thematized in Ivy League admission debates and legally scrutinized in the context of individuals outperforming on standardized college admission tests but not being admitted. Discrimination of excellence evidence is found in most outstanding students failing a PhD degree conferral and intransparent promotion criteria systemically biasing against outperformers and overachievers (Puauschunder 2019a, b).

Theory

Discrimination is unjust or prejudicial treatment of different categories of people or things. Attempts exist to legally abolish, economically counter-weight and societally alleviate the negative consequences of discrimination around the world. The Fifth and Fourteenth Amendments to the United States Constitution ban the federal and state governments from discriminating. The United States Employment Discrimination laws seek to prevent discrimination based on race, sex, sexual orientation, religion, national origin, physical disability, and age by employers. The United States Equal Employment Opportunity Commission lists as especially sensitive areas of discrimination attention age, disability, equal pay and compensation, genetic information, harassment, national origin, pregnancy, race and color, religion, retaliation, sex and sexual harassment. The European Union introduced an Anti-Discrimination Directive to ban discrimination on the grounds of age, disability, religion or belief and sexual orientation. The Lisbon Treaty on European Union and the Treaty on the Functioning of the European Union serves as legal protection against discrimination acknowledging equal rights for all human to be treated unbiased and with equal fairness and dignity.

Discrimination of excellence includes the 2019 college admission fraud scandals, standardized admission test outperformers suing a U.S. higher education institution and the United States Department of Justice scrutinizing higher education over potential systemic biases in college admission standards that would underweight transparent standardized testing criteria. University and college admission and promotion criteria are critical career gatekeeping events, in which unexpectedly overweighting intransparent, non-merit based criteria can result in merit-based outperformers underperforming in admissions. Discrimination bias can occur in merit-based up-or-out placement and promotion criteria in hierarchical rank orders, when performance is partially measured on intangible or intransparent performance criteria implying potential economic inefficiency.

Economic foundations: Outperformance is the foundation of excellence. Overachievement is related to investments. Outperformance and overachievement are bases of the intellectual elites and related to luxury consumption. Overachievement instigates economic growth. John Maynard Keynes' multiplier effect attributes investments of overachievers as drivers of economic growth. Investments of the striving elite multiply in economic spending in the overall economy. Too-big-to-fail bailout and leadership arguments back the idea of bundling excellence in elites, whose larger-scaled overachiever projects are funded by long-term investments that stimulate economic growth.

Consumption of the elite is an economic growth factor. Thorstein Veblen's trickling down of excellence emphasizes that luxury consumption is a driver of economic growth and accelerator of social enhancement and cultural advancement. Conspicuous consumption motivates others to strive to consume as well and be economically productive to achieve this goal. The American Dream ideals of striving to outperform are foundations of economic productivity. Economic inefficiencies of discrimination of excellence range from lost economic potential and inefficiencies, career-switching costs and diminishing human capital and labor productivity. Health and societal risks experienced in the wake of discrimination imply social, socio-psychological and emotional burdens (Puaschunder 2020).

Historical foundations: Slowing down overachievers and abolishing intellectual outperformance has occurred throughout history. After the Taj Mahal was built, rumor has it, all workers' hands were amputated and the architects disappeared – allegedly, to avoid a second palace to ever be created like the Taj Mahal. Various regimes attempted to eradicate, cut down or slow performance and discourage individual striving – e.g., Cambodia, Holocaust, genocides targeting intellectual groups.

Societal structure: Discrimination of excellence theory integrates the 'übergroup' in the social psychology social identity theory categorization of society into so-called 'ingroups' and 'outgroups.' 'Übergroups' capture the societal position of natural strivers who outperform and therefore are prone to face discrimination of excellence. Socio-demographic prevalences include age groups, hierarchical positions and seniority principles that may breed discrimination of excellence.

Social-psychological motives: Socio-psychological motives and emotions that cause and accompany discrimination of excellence include envy, jealousy, inferiority complex, reputation greed and suboptimal group norms.

The problems around overachievement can also be addressed as a disability. A disability is any condition that makes it more difficult for a person to do certain activities or interact with the world around them. These conditions, or impairments, may be of cognitive nature and in combination with environmental factors. The overachievement of an individual may lead to an unfavorable or hostile environment, in which impairments occur. Disabilities is an umbrella term, covering impairments, activity limitations, and participation restrictions. An impairment is a problem and an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations. Disability is thus not just a health problem. It is a complex

phenomenon, reflecting the interaction between features of a person's body and features of the society in which he or she lives (World Health Organization 2020). Stereotypes, associated with either disability in general, or with specific disabilities serve as a justification for ableist practices and reinforce discriminatory attitudes and behaviors toward people who are disabled. Labeling affects people when it limits their options for action or changes their identity. In ableist societies, people with disabilities are viewed as less valuable, or even seen as a weird person. The eugenics movement of the early 20th century would be considered an example of widespread ableism.

Interpreting overachievement as disability refer to limitations imposed on people by the constraints of an ableist society that reacts to overachievement with prejudice. On this basis, people are unfairly assigned perceived abilities and character orientations. Based on inaccurate attributions and implicit emotional fallouts of their environment, overachievers may be denied certain rights and privileges. Overachievement or giftedness can be defined as a disability because it will frequently create difficulties for individuals to function in society as a "normal" person. From a young age, overachievers are harassed and discriminated against by their peers, put into an outcast position, and labelled as "nerds", "geeks", or "weirdo." Consequently, gifted children often develop social inhibitions and traumas that they are not able to shed, if ever, well into adulthood. While overachievers frequently have abilities that allow them to succeed academically and thus leave their peers behind, their social deficits are often a counterweight that balance or outweigh their advantages, thus ultimately resulting in a lower degree of life success. Overachievers consequently often struggle with professional success, and they have difficulty in their social life, for example forming meaningful relationships with the others.

Empirics

While theoretical presenting a preliminary idea of an economic model of value transfer between equality and inequality, my subsequent research will target at finding inequality alleviation strategies. Qualitative and quantitative empirical data on direct and indirect transactions and interaction outcomes between equality and inequality representing agents within societal networks will be retrieved on the following multiple domains. Further, a field experiment and applicability check in real-world settings are endeavored to be pursued.

Discussion

After a theoretical foundation of Discrimination of Excellence and introduction of strivers as uebergroups in society, future research should empirically focus on qualitative case studies, diary technique collected data and an external review report in the higher education sector vividly outline discrimination based on excellence. Qualitative analyses of PhD studies blog entries reveal a pattern of outperformers being forced out of higher educational institutions to successfully continuing in higher-ranked institutions. Evidence of intangible admission criteria, unfair testing situations and delayed or unsuccessful academic promotion statistics serve as additional evidence on discrimination against excellence. Resistance to share information on testing and promotion criteria transparently are detected to allow for discrimination. Macro-economic analyses reveal industries that are prone to breed discrimination based on excellence to estimate the short- and long-term losses of discrimination of excellence based on economic trickling down and too-big-to-fail arguments but also Keynes' multiplier innovatively applied in endogenous growth theory alongside including health and societal risks in the wake of discrimination. Macro-economic cross-sectional and time series analyses in the laboratory of modern world history outline socio-economic costs of slowing outperformers and abolishing intellectual advancement. Artificial intelligence increasing the currently unprecedentedly wide divide between skilled and unskilled labor is predicted to even higher importance of attention to excellence in the future.

Alleviation strategies: Excellence is an asset of the economy and society. Protection from discrimination is grounded in human beings being treated with equal respect and dignity. Respect for excellence offers individual well-being derived from dignity, economic prosperity grounded in large-scale individuals' striving and societal advancement founded on overachieving elites.

Legal codifications, economic action and public policy as well as corporate workplace incentives protect performance free from discrimination. Awareness building, transparency and mandatory access to information on hiring, testing and promotion criteria appear as natural remedies besides legal action to combat discriminating individuals, institutional and systemic structures.

Cultures-of-excellence safe havens but also rescue funds for those whose career has taken a hit due to discrimination of excellence are discrimination alleviation strategies. In order to overcome a performance polarization between uebergroups and outgroups, uebergroups can transfer performance strategies to potentially underperforming outgroups, who can offer in lieu knowledge on discrimination coping strategies. The strategic alliance of out- and underperformers offers a more productive and anti-discrimination-sensitive workplace, economy, democracy and society.

Thomas Piketty's (2014) *Capital in the 21st Century* revolutionized economic thoughts on inequality. Started by the 2008/09 World Financial Crisis and thematized in the subsequent Occupy movement but also revitalized in the post-COVID-lockdown period, attention to rising inequality regarding wage, opportunity and wealth led to advocacy for a more equal society. Puaschunder (2016) modelled economic wealth transfer in dyads of exchange between crystallized value based on heritage (e.g., royal families, legacy admits) and merit-based equality represented by outperforming offspring from families with underprivileged backgrounds. Puaschunder's (2016) theoretical economic model argues for beneficial economic outcomes if social capital holding legacy admits connect with outperforming ambitious strivers of underprivileged backgrounds at higher education institutions. On the societal level, within networks favorable environments may serve as transformation hubs if connecting social capital with merit-based underprivileged outperformers. Overall, this research strives to grant hope in Piketty's outlook of rising inequality by showing the economic merits of inequality when paying attention to value transfer opportunities, in which social capital of legacy admits is exchanged for excellence strategies of merit-based outperformers.

Overall, future research may focus on finding legal codifications, economic action and public policy as well as corporate workplace incentives to protect performance free from discrimination. Awareness building, transparency and mandatory access to information on hiring, testing and promotion criteria appear as natural remedies besides legal action to combat discriminating individuals, institutional and systemic structures. Cultures-of-excellence safe havens but also rescue funds for those whose career has taken a hit due to discrimination of excellence are loss alleviation strategies. In order to overcome an educational inequality and performance polarization between outperforming uebergroups and outgroups, uebergroups can transfer performance strategies to potentially underperforming outgroups, who can offer in lieu knowledge on discrimination coping strategies.

In the end, this research will celebrate outperformers as asset of the economy and protection of excellence a source of dignity and sophistication of society. As a most innovative extension on the knowledge of excellence, the research will also address the socio-economic value of luxury in its purest form representing a Gestalt that is more excellent than the sum of its pieces, a unique mastery over the world that serves a common purpose. Protection from discrimination ensures human beings being treated with equal respect and dignity. Respect for excellence offers individual well-being derived from dignity, economic prosperity grounded in large-scale individuals' striving and societal advancement founded on overachieving elites. The strategic alliance of out- and underperformers offers the vision of a more productive and anti-discrimination-sensitive workplace, economy, democracy and society.

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Surmounting the Disconnect in Practical Lessons between Curriculum Expectations and Learners' Prior Experiences

Adri Du Toit

Faculty of Education, North-West University, South Africa, Dutoit.Adri@nwu.ac.za

ABSTRACT: Home Economics, Consumer Studies and other similar subjects can contribute valuable learning to the lives of learners. Efforts to globalize the contents of these subjects have, however, occasionally led to a loss of cultural inclusivity in curricula, as has been the case in South Africa. Notwithstanding the South African educational landscape needing to cater for diverse cultures, the Consumer Studies curriculum still mainly focuses on Western knowledge and skills, particularly the selection of products that learners must make in food production lessons. This leaves especially African learners feeling disconnected and unmotivated to perform well or succeed in the subject. The overarching aim of the research was to frame recommendations in the form of practical suggestions as part of efforts to surmount this disconnect in order to broaden the perceived and experienced value of food production in Consumer Studies for a wider range of culturally diverse South African learners. A qualitative case study was employed to explore if and how a Consumer Studies teacher at a school consisting of mostly African learners was attempting to overcome the disconnect between the curriculum expectations and learners' prior experiences. Interviews and site visits were conducted to collect data, and the data were then thematically analyzed from an interpretivist perspective. The findings indicate a substantial disconnect between the expectations of the teacher (informed by curriculum requirements) and the prior experiences and learning expectations of her learners, especially as regards the qualities of successful food products. Two recommendations are made: first, the teacher should use demonstrations as a teaching method to improve learners' familiarity with products; and second, clear visual images should be displayed to learners to aid them in understanding the expected outcomes of the products they have to make in practical lessons.

KEYWORDS: Consumer Studies, cultural inclusivity, curriculum expectations, demonstrations, food production lessons, visual aids

Background and problem statement

Home Economics was first introduced in South Africa in 1904 and has since undergone several name changes and advances similar to trends in comparable subjects internationally. The name for the subject with these roots in the latest South African school curriculum is "Consumer Studies." Consumer Studies has advanced from focusing on the family as production unit to the family as a consumer unit (Umalusi 2014, 34). In line with this change, the practical component of Home Economics entailed making items (such as food or clothing) to fulfill the needs of the family, whereas practical lessons in Consumer Studies now focus on skills development in various production options (including food, soft furnishings, accessories and clothing) with the dual purpose of helping learners to produce quality, marketable products for consumers and supporting learners' entrepreneurial development (Department of Basic Education [DBE] 2011; Ngwenya and Shange 2019; Umalusi 2014).

Developing learners' entrepreneurial knowledge and skills is crucial in South Africa, where youth unemployment is persistently high. The youth unemployment rate in South Africa was 53,06% on average between 2013 and 2020 but reached an all-time high of 59% in the first quarter of 2020 (Trading Economics 2020). These statistics underscore the potential value of Consumer Studies, as this subject can contribute to addressing youth unemployment. This value is interwoven with the practical lessons in Consumer Studies, which offer learners opportunities to cultivate skills and knowledge that they can use to design, develop, make and sell products (Du Toit and Kempen 2018;

Ngwenya and Shange 2019). Teaching learners practical knowledge and skills – especially for food preparation – through Home Economics and subjects related to Consumer Studies has been practiced for more than 100 years (Nanayakkara, Margerison, and Worsley 2018, 2).

The type of products (and associated skills) that learners develop depends on the practical production option offered at each school. The five options from which schools may choose – including some examples of products made in each option – are as follows: Food Production (cakes, biscuits, pastries, sweets, gelatin dishes, meat dishes); Clothing Production (shirts, trousers, hats, beach bags); Soft Furnishings Production (bedding, tablecloths, cushions, curtains); Knitting and Crocheting (granny squares combined to make blankets, scarves, hats, mittens, cardigans); and Patchwork Quilting by Hand (cellphone or eyeglass cases, bags, comforters, placemats and other quilted items) (DBE 2011). Schools may choose only one option, provided that they have the infrastructure stipulated by the curriculum for that option. For example, for Food Production, a “fitted and equipped training kitchen with electricity supply” and “[f]our-plate stoves with ovens, adjacent to work surfaces”, as well as several other requirements, must be available (DBE 2011, 10).

More than 95% of schools offering Consumer Studies as an elective subject chose Food Production for their practical component (Du Toit 2018). Most South African Consumer Studies learners, therefore, have many opportunities to produce food products that can be used for entrepreneurial purposes. A detailed document analysis of the Consumer Studies curriculum currently in use revealed that the cultural variety of food products learners are taught how to prepare is quite restricted and most items have a Western origin (Du Toit 2018). For example, the Food Production option of the Consumer Studies curriculum includes products such as pasta Alfredo (DBE 2011, 39), éclairs and cream puffs made with choux pastry (DBE 2011, 40), or Swiss rolls (DBE 2011, 41). In addition, when considering that the most recent mid-year population estimates indicate that about 80,8% of South Africans are of African ethnicity (Statistics South Africa 2020) comprising various cultural groups – including isiZulu, isiXhosa, Xitsonga, Setswana, Tshivenda, isiNdebele, and others – the emphasis on food products with mainly Western origins that learners must make in the Food Production component is perplexing, as it does not reflect the rich cultural diversity of the country.

There are various reasons for the emphasis on the “Western foods” learners must make as per the curriculum requirements for Food Production. Home Economics (of which Consumer Studies is an extension) was brought to the African continent by missionaries’ wives, who were obviously trained in Western cultures (Celumusa 2018, 57), and their influence is still pertinent in these subjects. This influence includes, but is not limited to, the particular skills and techniques associated with certain products (such as using steam as a raising agent in choux pastry) and a preference for certain products such as Swiss rolls, eclairs, or vol-au-vents. The inclusion of Western content also contributes to countries’ efforts to keep their local curricula aligned with global trends. This situation is not unique to South Africa. The curricula of subjects that are similar to South African Consumer Studies in other countries have also been criticized in that they “[reflect] a strong Western influence and could be viewed as irrelevant” to the context of certain groups of learners (Celumusa 2018, 57). Similar criticism has emerged in, for example, Swaziland (Celumusa 2018), Australia (Nanayakkara et al. 2018) and India (Rathi 2017). Rathi (2017, 43) puts the blame for this Western focus on the globalization of the curricula of subjects such as Home Economics and Consumer Studies, stating that prior to the globalization of the current “irrelevant and poorly designed” Home Economics curriculum in India, the curriculum was actually “quite relevant” to the Indian context.

The South African National Curriculum Statements (of which Consumer Studies is one subject) state the general aim that this “curriculum promotes knowledge in local contexts, while being sensitive to global imperatives” (DBE 2011, 4). Notwithstanding the general aim of the overall school curriculum, efforts to globalize the content in Consumer Studies have led to a loss of cultural diversity in this subject’s curriculum. Cultural inclusivity is, therefore, lacking in the Consumer Studies curriculum document, and this is particularly evident in the products available for the Food Production practical component of the subject. This can leave especially African learners feeling disconnected and unmotivated to perform well or succeed in the subject or to pursue the potential for entrepreneurship linked to practical production. Celumusa (2018, 26) is convinced that, if curriculum

content is not contextualized and culturally relevant, “educators may not find it meaningful, with learners losing interest”, which not only negatively affects the learners but also the subject teachers.

Interviews that were conducted with Consumer Studies teachers across South Africa in a previous study confirmed that several teachers believed that many of their (especially African) learners were unfamiliar with Western dishes, having had limited or no prior experience thereof (Du Toit 2018). Ngwenya and Shange (2019) report that Consumer Studies learners are unfamiliar with several ingredients in the recipes; they do not fully understand the techniques required in production (such as kneading); and they do not know what the final product should look like or what properties it should have. Learners are, therefore, often unclear about what is expected from them (actions) as well as the expected outcomes (product appearance and qualities). Schoenfeld (2018) states that a lack of prior experience means that learners are underprepared for the challenges they will face in the learning environment and that they need to be educated through learning-by-doing so as to prepare them to overcome these issues and so that they can learn from their mistakes. In this regard, it is important to give credence to the suggestion of Therrell and Dunneback (2015), who argue that it is vital that teachers provide and communicate their expectations clearly to learners. Their argument is that clear expectations give a voice to the teaching-learning needs of teachers and learners and that clear expectations provide learners with a “pathway to a good grade” (Therrell and Dunneback 2015, 59), which should improve their chances of succeeding in the subject. In the context of the current study, if learners are provided with clear(er) expectations of the process and outcomes of products, they can succeed better in Food Production practical lessons. This, in turn, may increase their motivation to endeavor to develop such products into entrepreneurial opportunities, which can contribute to self-directed employment generation and thus a reduction in the number of unemployed youths in South Africa.

The problem, therefore, was that a disconnect exists between the products that the Consumer Studies curriculum expects learners to produce and the prior experiences of many learners of those products. It was unclear if and how Consumer Studies teachers – especially at schools consisting of mostly African learners – were attempting to overcome the disconnect between the Food Production curriculum expectations and learners’ lack of prior experiences of the products they had to make. If insights were gained about such practices (if any), recommendations could be made in an effort to surmount this disconnect. The long-term goal of this investigation was to broaden the perceived and experienced value of Food Production in Consumer Studies for a wider range of culturally diverse South African learners. In an effort to address the above-stated problem, the following question guided this investigation: How and to what extent does a Consumer Studies teacher at a school consisting of mostly African learners attempt to overcome the reported disconnect between the Food Production curriculum expectations and many learners’ lack of prior experiences of the products they must make?

Conceptual and theoretical framework

When viewing this problem against the background of the cultural iceberg theory – based on the work of Hall (1976), and French and Bell (1995), among others – it is clear that deep cultural issues such as learners’ cultural expectations, perceptions, notions of cleanliness and basic assumptions are often disregarded in education (Figure 1). Even though “food” is considered to be a more obvious or surface aspect of culture in the cultural iceberg theory (Figure 1), it typically refers to what learners prefer or are accustomed to eat rather than what they have to prepare in line with the curriculum requirements. Rathi (2017, 26) describes learners’ familiarity with foods as being “mainly driven by what they [adolescents] visualise and eat most frequently, and are developed through repeated exposure to food.” From a socio-constructivist point of view, the experiences of individuals can be regarded as shaped and determined by their culture as well as the customs, contexts and people they interact with (Creswell 2013). These experiences are used to construct knowledge, which serves as a foundation for subsequent learning. Consequently, if learners have no prior experience of certain food products in the curriculum, they are probably unable to visualize what the qualities or appearance of

those products should be, unless they are supported in this regard. Also, while food is an obvious cultural aspect in the iceberg model, deeper cultural issues (including expectations) must also be kept in mind when planning educational experiences that would be culturally relevant to learners. Therefore, in cases where the curriculum cannot be changed, ways need to be developed to support learners' learning and understanding of aspects in the curriculum they might be unfamiliar with.

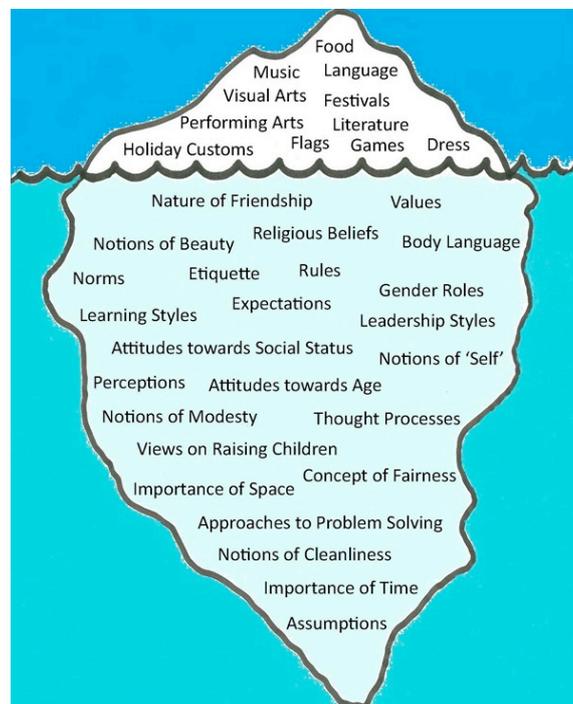


Figure 1: Visualization of the cultural iceberg theory or model

Image source: Creative Commons License (details [here](#))

To support learners in obtaining successful learning outcomes, curriculum expectations should be clarified (Therrell and Dunneback 2015). Teachers play various roles in providing such support to learners when implementing the curriculum. These roles include planning and preparing lessons; assessing learners' learning; sourcing or developing teaching resources; and “demonstrating practical skills” (Celumusa 2018, 269). Further demarcating such support, and in line with socio-constructivism, Schoenfeld (2018) recommends that teachers should provide links between theory and practice – in particular, by way of visual support and also in the form of demonstrations – to provide connections between prior learning and new experiences. The visual support that Schoenfeld (2018) refers to frequently includes teaching resources such as textbooks or other visual aids such as posters or videos.

Visual aids supplement the work and verbal instructions of teachers and contribute to more consistent and professional lesson presentations (Eseza 2019). In circumstances where particular “items are not readily available locally”, visual aids would help learners to visualize concepts to support learning and skills development (Celumusa 2018, 273). For example, when visual aids such as textbooks, posters and videos were introduced and used in the Home Science curriculum in India, a remarkable improvement in learners' knowledge development was noted (Rathi 2017). It has, however, been reported that textbooks often do not include enough photographs or visual images to support practical skills development (Rathi 2017) – a situation that is also experienced in South African Consumer Studies classrooms (Du Toit 2018). This underscores the need for teachers to utilize other visual resources, such as posters and videos, to support learners' learning, especially in preparation for practical lessons. However, a survey of South African Consumer Studies teachers' use

of resources revealed that most of the participating teachers relied heavily on textbooks to teach the subject (Du Toit 2018, 202); that other teaching-learning resources for the subject had not been provided by the DBE (206); and that few teachers used videos or the Internet as resources in the subject (202). Yet, literature confirms that videos have been used successfully as visual aids to support practical lessons in subjects similar to Consumer Studies in other countries, such as eSwatini (Celumusa 2018, 274), Australia and India (Rathi 2017, 157).

If visual aids are unavailable, or if internet- or technological access is problematic, as is the case in many Consumer Studies classrooms in South Africa (Du Toit 2018, 200), the burden of providing visual aids to support learners' learning reverts to the class teacher. In such circumstances, teachers would need to demonstrate the processes and products for practical lessons, especially when learners are unfamiliar with the products. Schoenfeld (2018) found that demonstrations substantially contribute to learners' learning-by-seeing and learning-by-doing. Demonstrations support the development of learners' understanding, knowledge and skills (Eseza 2019; Rathi 2017), making it suitable to support and prepare learners for practical lessons. For demonstrations to effectively contribute to learning, they should be carefully planned and scaffolded, implying a need for guidance to help teachers in this regard (Celumusa 2018). In addition, teachers could invite experts and stakeholders outside the school to "assist in improving the quality and relevance of senior secondary school education" (Nanayakkara et al. 2018, 11) by helping teachers to develop effective resources or well-structured demonstrations. Teachers can and should play a vital role in supporting learners to overcome the disconnect between the curriculum expectations and learners' lack of prior exposure to the products they must make. Visual aids and demonstrations are useful resources and approaches to bridge this disconnect. Next, the empirical investigation – to explore if and how this disconnect realizes in practice in schools – is described.

Empirical investigation

A case study with an interpretivist approach was used to explore if and how a Consumer Studies teacher at a school consisting of mostly African learners was attempting to overcome the reported disconnect between the Food Production curriculum expectations and learners' prior experiences of the products they had to make. The investigation focused on identifying any methods or teaching-learning support materials that the teacher provided to help her learners to overcome their unfamiliarity with ingredients and techniques used in recipes as well as to familiarize learners with the requirements for and expected appearance of the final products, since these were particular challenges identified by Ngwenya and Shange (2019) for the South African context.

The Department of Basic Education was approached to identify a school that offered Consumer Studies to mostly African learners but where learners were struggling to succeed with Food Production practical work (purposive sampling). Only one school was sampled, since this investigation was meant to serve as a point of departure for exploring if (and to what extent) attempts are made in practice to overcome the reported disconnect between the subject's curriculum expectations and learners' prior experiences. Relevant permissions and ethical requirements from the Department of Basic Education, as well as the university and faculty in which the research was based, were obtained and adhered to. Anonymity of the teacher and school in the reporting of the findings was part of the ethical requirements. Informed by the insights gained into practices (if any) used to surmount the disconnect between curriculum expectations and learners' prior experiences of products, the overarching purpose of the study was to subsequently develop recommendations in the form of practical suggestions that Consumer Studies teachers could use in an effort to surmount this disconnect.

Data were collected by means of semi-structured interviews with the Consumer Studies teacher as well as site visits to her practical classroom. The interviews comprised of several open-ended questions aimed at garnering insight into the practices the teacher utilized to implement practical lessons. Follow-up questions were asked via phone in order to clarify possible

misunderstandings or points of uncertainty, which contributed to the reliability and credibility of the research. During the site visits, the Consumer Studies teacher accompanied the researcher in and around the classroom to be on hand to explain particular layouts, positioning of equipment, et cetera. Digital photographs were taken (with permission from the teacher, the school principal, as well as the Department of Basic Education) of all areas of the classroom for further analysis and subsequent reference purposes. The site visits provided visual data about the layout of furniture and equipment, storage of ingredients and utensils as well as teaching-learning resources used as part of practical lessons.

The semi-structured interviews were transcribed verbatim. The data were then analyzed by means of thematic analysis and were interpreted. The focus was on (1) the teacher's knowledge of and insights into her learners' prior experiences of the products they had to make, and (2) her attempts or practices to clarify curriculum expectations for her learners. Photographs of the practical classroom were analyzed visually to identify any teaching-learning media that might help learners to overcome the disconnect between the curriculum expectations of the products they must make and their unfamiliarity with those products. The interpretation of the data was informed by existing literature on accepted standards for and approaches to practical lessons as well as reported techniques to clarify expectations in support of learners' learning experience. The transcripts and photographs were analyzed separately by the researcher as well as by a class of Consumer Studies student teachers (as part of their training). Subsequently, the analyses were compared and refined, and recommendations were made.

Findings, discussion, and recommendations

It emerged from the interviews that this teacher recognized that many (if not most) of the learners in her classes often struggled with Food Production practical lessons. The learners' poor levels of success and inability to complete food products in Food Production at this school were subsequently confirmed by an independent official of the Department of Basic Education. The Consumer Studies teacher gave several reasons for the learners' poor performance, including that she knew that her learners "did not know what they are making" and that "[t]heir end products sometimes are not good because they cannot interpret their recipe correctly." Follow-up questions revealed that her learners confused ingredients (for example, sugar and salt; icing sugar and flour) and that they did not realize the importance of correct measurement, order of work, and correct execution of techniques in recipes. She further mentioned that her learners perhaps had not "seen or eaten the product that they had to make" before the lesson, such as Swiss roll or éclairs, which indicates that the learners did not have prior experiences to inform their ideas of what the final product should look like, its texture and taste. Her comments are similar to the findings of Ngwenya and Shange (2019), who reported that Consumer Studies learners often do not know what properties or appearance the final product should have. This finding also echoes the findings of a previous study in which numerous teachers across South Africa reported a disconnect between the curriculum expectations and learners' prior experiences of products (Du Toit 2018).

It also emerged that the teacher had made no specific efforts to overcome this disconnect, despite knowing that it negatively affected her learners' success in Food Production practical lessons. Eseza (2019, 60) reports that Ugandan teachers of subjects that are similar to Consumer Studies in South Africa were similarly "not concerned about their learners understanding during the [practical] lesson." Therefore, there seems to be a need to reiterate the importance of learners' preparation and understanding for practical lessons to teachers as part of their preparation for such lessons. In other words, practical lessons entail much more planning and preparation before the day the learners make the product than on the day.

Informed by findings of scholars like Schoenfeld (2018), who noted that demonstrations deeply affect learning-by-seeing and learning-by-doing, the teacher was asked if she had demonstrated techniques or complete procedures for recipes, and her answer was as follows: "No, I don't, uhm, sometimes I...uhm, sometimes I demonstrate in class." Rather than showing the learners what to do,

she gave verbal instructions: “So I will read instruction number one that they have to do, especially Grade 10, but they do something that is different.” Therefore, not only were learners often unfamiliar with the expected outcome(s) (such as products’ appearance or qualities) but they also experienced ingredients and/or techniques used in recipes as unfamiliar. Ngwenya and Shange (2019) shared similar findings, reporting that when learners misinterpret recipes, their final products’ outcomes are unsuccessful. The need to train and guide Consumer Studies teachers to plan and scaffold effective demonstrations was apparent and should be addressed in subsequent research.

Visual inspection of the practical classroom showed a space devoid of color, with not a single poster or picture (or other visual aids) related to the practical lessons that took place in the classroom displayed anywhere (see Figure 2).



Figure 2. The practical Consumer Studies classroom in the case study

The teacher also declared that she did not keep recipe books in her classroom that learners could use, which the Consumer Studies curriculum states as one of the minimum requirements for presenting Food Production (DBE 2011, 10). She further commented that she did not use videos because internet access was expensive and unstable at the school and that she only had her laptop, with no accessories (such as a projector) to display its content to learners. From this case study, it emerged that, despite knowing that her learners’ prior experiences did not prepare them for the expectations of the curriculum, the teacher did not adjust her teaching methods, nor did she use visual aids, to surmount this disconnect, as recommended in the literature. As mentioned by Therrell and Dunneback (2015), expectations should be clarified to meet the teaching-learning needs of learners and to support them in obtaining successful learning outcomes. In order to “reconcile the educational expectations of students, [and] educators,” and therefore also the expectations of the curriculum, Schoenfeld (2018, 188) recommends that links be provided between theory and practice, particularly by way of visual support and also in the form of demonstrations to provide connections between prior learning and new experiences. Despite unlimited videos being available on the Internet that could have been used instead of actual demonstration by the teacher, unreliable internet access and a lack of technological devices to support its implementation ruled out this resource. Nevertheless, it should be noted that videos can save time and energy, provide a variety of learning for learners (Eseza 2019, 86) and would be more cost-effective when compared to the financial expenses for physical demonstrations of food products.

In the light of the findings and informed by the literature (which recommends visual support in this regard), two recommendations were made to the teacher. The first recommendation was that she should include more demonstrations as part of her teaching practice to prepare learners for practical lessons. Demonstrations to inform learners about aspects such as

correct measuring of ingredients (especially dry versus wet ingredients), correct techniques for combining ingredients (such as kneading dough or beating egg whites), or preparing cooking equipment (such as lining a baking sheet) would go a long way toward helping learners understand and visualize clearly what is expected from them. Should the teacher herself be unable to do a particular demonstration, the investigating team were of the opinion that she would be able to find virtually anything in this regard, such as video clips on the Internet, and that she could then show such video clips to her learners. Suitable video clips could be stored digitally for subsequent years of teaching the same lesson to new groups of learners.

The second recommendation to the teacher was that learners should be provided with clear visual images of the expected outcomes of the products they have to make in practical lessons. Photographs of completed successful products would clarify curriculum expectations for learners and contribute to providing a pathway to success, as recommended by Therrell and Dunneback (2015). Furthermore, photographs of products that were not successful should also be included in order to provide learners with insight into why some of their products were unsuccessful so that they can learn from their mistakes (Schoenfeld 2018) and have more success in future attempts of making the same product. Informed by the recommendations of Nanayakkara et al. (2018, 1) that external stakeholders should be involved in “in improving the quality and relevance of senior secondary school food [preparation] education,” this particular recommendation of the current study was then followed through with action when student teachers designed and made visual aids, as described below.

Consumer Studies student teachers who were at the time in training for their future careers were viewed as sincere stakeholders who needed to contribute to overcoming the challenges associated with implementing the Consumer Studies curriculum. The Consumer Studies student teachers who analyzed the case study data developed several posters depicting products that were included in the Food Production curriculum, including successful and less successful outcomes. As part of a giving-back-to-the-community initiative, these posters were printed and gifted to the participating teacher to use in her classroom as visual aids. Examples of these posters are provided below (Figure 3).



Figure 3. Examples of posters of products developed by Consumer Studies student teachers

The teacher was pleased with these posters and immediately put them up in the practical classroom. She expressed that the posters would “really help the learners” to visualize and understand what is expected from them. In this manner, a small contribution was made to support the learners at this school to surmount the disconnect between the curriculum expectations and learners’ prior experiences of the products they must make. After the study, the posters were made available (without charge) to all South African Consumer Studies teachers.

Conclusion

The disconnect between curriculum expectations in practical lessons and learners' prior experiences is an ongoing problem in South African schools. Awareness of the problem is mounting, as is teachers' willingness to address it, but they need support in this regard. Inviting external stakeholders (such as students in training) to develop informative visual aids (such as the posters presented above) contributed to supporting this teacher in her effort to surmount the disconnect and addressing this problem without changing the curriculum. The recommendations and posters that were made for this investigation would also be useful to other South African teachers facing similar challenges and will be distributed nationally, without charge. Moreover, videos can contribute greatly to preparing learners for practical lessons, but until the digital divide is reduced, this resource is still out of reach for many South African teachers. Nonetheless, in the long run, it would be beneficial to include more food products with an African origin or slant in the Food Production curriculum, which would add to the variety of food products that Consumer Studies learners could potentially develop into entrepreneurial opportunities. Efforts should continue to develop and expand the opportunities embedded in Consumer Studies so that learners can create their own employment.

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Attitudes, Personality and Organizational Behavior

Maria-Daniela Pipaş

Associate Professor, Ph.D., Faculty of Economics, Management Department, "Bogdan Vodă" University of Cluj-Napoca, Cluj-Napoca, Romania, dpipas@yahoo.com

ABSTRACT: An interesting topic, often approached in scientific studies and followed insistently by the human resources departments of large companies is represented by the relationship between attitudes, personality and organizational behavior. Given that personality means diversity and is determined by both genetic factors and the individual's past learning, we can argue that during the process of gaining experience, with age, personality is susceptible to change which leads to changes in attitude and organizational behavior. In general, the sociological approach to attitude relates to social values. Psychological points of view investigate attitudes according to certain aspects of the personality: motivation, emotional states, cognition or behavioral dispositions. It is well known that attitudes precede behaviors. Of interest to those who lead groups is to know to what extent attitudes foreshadow behaviors and what is the connection between motivation, attitude and behavior. Regarding the organizational behavior, we are especially interested in the attitude towards work, respectively the satisfaction of the employees and the connection between it and the organizational performance.

KEYWORDS: personality, attitudes, organizational behavior, employees, change

Introduction

People enter groups and organizations with specific characteristics that influence their behaviors, the most obvious of which are personality, perception and attitude.

These characteristics are intact when the individual enters the organization and for the most part, the organization cannot alter them. However, they have a real impact on the individual's behavior.

At an individual level, managers and employees need to learn how to work with people who may be different from themselves in a variety of dimensions, including personality, perception, values, and attitudes. Each individual in turn has different levels of job satisfaction and motivation, which affects the way managers manage human resources (Langton, Robbins and Judge 2010, 12-13).

Communication studies in the late 1950s have speculated that people are trying to find information that is on the same wavelength as their attitudes and that they reject messages that conflict with them

More recent studies show that people are looking for information that is relevant to them, and not because it strengthens their beliefs (Gregory 2009, 114). In this sense, we can say that attitudinal processes include both cognitive aspects (perceptions and thinking) and affective aspects (emotions and feelings).

The behavior-attitude connection

In interpersonal relationships, attitudes can include positive connotations - of closeness or negative connotations - of antipathy or contempt. Attitudinal consistency can be explained by the consistency of individuals to remain in the paradigm of their own set of values and beliefs. Often, people's attitudes seem to be just an expression of their stereotypes. However, attitudes are the cognitive and affective approach able to ensure the behavioral coherence of each personality (Stanciu and Ionescu 2007, 9-10).

Attitudes are formed in the communication process; the mutual influence of individuals from an attitudinal point of view is also mediated by communication. The most relevant psychic element of an attitude is the motivational-emotional one. Attitude (Pânzaru 2010, 16): "*is a*

relatively stable emotional tendency towards a consistent response to a specific object, situation, person, or human category. Attitudes involve emotions directed at specific targets (for example, if a person wants to express his attitude towards his boss, he will say that he likes them or not). Attitudes are relatively stable; of course, some attitudes are less strong than others and as a result more open to change.”

By attitude, Boncu means: “*an internal disposition of the individual, which underlies his perception and his reactions to an object or stimulus*”, while Gordon W. Allport considers that: “*an attitude is a state of mental and neural preparation, organized by experience, which exerts a directing or dynamizing influence on the individual response to all objects and situations with which it is related*” (Boncu 2003, 125).

Attitudes cannot be directly observed and measured; they are the manifest of mental states through verbal behavior, actions, etc. They are formed through learning, being accumulated through single, and multiple, direct or mediated experiences. In addition, attitudes influence and guide behavior.

Regarding the internal structure of attitudes, most specialists agree with the triadic model. It involves the following elements: affective (emotions, feelings and associated physiological reactions), cognitive (knowledge about the object of attitude and its properties) and behavioral (intentionality of action). In addition to the properties of orientation and intensity, attitudes also have the property of centrality which refers to the position of some in relation to others. If attitudes are central, they are harder to change (Stanciu and Ionescu 2007, 10-11).

Attitudes are influenced by values and are acquired from the same sources as values: friends, teachers, parents and role models. Attitudes focus on certain people or objects, while values have a more general focus and are much more stable than attitudes. “*Employees should be allowed to participate in decisions*” is a value; the positive or negative feeling towards the position held when participation is allowed is an attitude.

When it comes to work, attitudes can be towards supervision, payment, promotion or anything else that can attract positive or negative reactions. Employee satisfaction and attitudes are one of the key areas in which the effectiveness of an organization can be measured.

Attitudes at work influence the results of the organization, therefore there are also a number of methods that we can use to change employees' attitudes. Formally defined, an attitude is a predisposition to respond in a positive or negative way to someone or something in a certain context. For example, when we say that we “like” or “dislike” someone or something, we express an attitude. It is important to remember that an attitude, like a value, is a hypothetical creation, which simply exists, cannot be seen, touched or isolated by anyone else. Rather, attitudes are things deduced from what people say in an informal or formal way (through polls) or from behavior (Schermerhorn Jr., Hunt, Osborn 2011, 29-30).

The behavior-attitude connection is also influenced by contingency: the time that elapses between the moment of attitude formation and the moment when we can observe a behavior. The shorter the time between when the attitude is measured and when the behavior can be observed, the greater the coherence between the two, the more accurate the prediction will be.

Even if attitudes do not always predict behavior, the connection between attitudes and potential or intentional behavior is important for managers to understand. If we think about conversations or what we hear about negative attitudes towards work, we must know that they often turn into increased work expenses, absenteeism, lack of punctuality and even illness. It is the responsibility of managers to recognize attitudes and to understand their background and implications.

Attitude change

Attitudinal change can be explained by the stimulus-response theory of reinforcement; between the stimulus and the response, the processes of attention, understanding and acceptance are interposed. As a result, the answer calls for a change in attitude. Attitudes change if “*the stimulus*

for a new response is stronger than the stimulus for the old response” (Chelcea 2000, 77). We can say that the attitude change is influenced by the attractiveness of the source transmitting a message, the message factors and the social context.

Studies of whether attitudes can anticipate behaviors have the most contradictory results. Some have shown that there is a censorship between attitude and behavior, in the sense that people do one thing and say another. In other words, there is a discontinuity between attitude and behavior. Icek Ajzen and Martin Fishbein (Ajzen and Fishbein 2010, 99-101) showed that: *“attitude and behavior are made explicit by the relationship between their component elements: the object of attitude, action (manipulation of the object), time and context”*.

Davidson and Jaccard (Davidson and Jaccard 1979 (1364-1376), 1371) argue that behavioral predictions can be made if attitude is measured at a specific level and not globally. That forecast also depends on the time period between measuring attitude and producing behavior (if the interval is shorter, the prediction is better). In addition to attitude, there are other factors that announce the behavior: the intensity of the situational constraint, the pressure of peers and the degree of repeatability of situations.

Sharp attitudes announce immediate, clear, predictable and explicit behaviors. Hesitant or pluri-valent attitudes cannot be translated into behavioral predictions. On the other hand, the individual experience prior to a subject, known to the observer-manager, allows him to anticipate the behavior of the subordinate, by repetition, especially if there was a reward for the same behavior.

Regarding the organizational behavior, we are especially interested in the attitude towards work, respectively the employee satisfaction and the connection between it and the organizational performance. It is not always easy to change a person's attitude towards work.

Attitudes towards work are only one component of a person's attitude structure. They can be linked and correlated with several other attitudes, which makes it difficult for managers to change employees' feelings and actions.

However, attitudes and job satisfaction can change and sometimes this happens quickly. Employees who are happy and productive may become less satisfied and dissatisfied as a result of managerial action. This is one of the reasons why many organizations pay special attention to attitudes and regularly conduct attitude surveys among employees.

The hope of managers is that by evaluating the attitudes of employees, valuable information is obtained about the effectiveness of different management strategies.

Attitude stability varies dramatically and depends on the individual, attitude and context. Evidence shows that when people are placed in a different social context, their attitudes can change completely. For example, the attitude of some union employees in a company was anti-management, but when some were promoted to managerial positions their attitudes became pro-managerial. At one point, restructuring took place and some of the last promoted returned to their original positions. At the same time, their attitudes have also changed, becoming anti-managerial.

There are also attitudes that are very stable over time, regardless of the situation. A study that assessed how employees perceive certain characteristics of the job such as autonomy, variety, feedback, found that these attitudes were remarkably stable. Emotional reactions related to satisfaction or dissatisfaction with the supervisor were not stable and varied from employee to employee. As a general rule, it can be said that attitudes are more stable than emotions.

About attitude and personality

By attitude at work, says Stanciu (Stanciu and Ionescu 2007, 14-15), we refer to the way an individual reacts to the typical situations described by a task. Personality as a whole rarely provides clues to performance potential, but it is recognized that proactive attitudes toward work lead to high levels of performance. However, among the personality traits, conscientiousness and the need for self-improvement through learning are clear indications that announce performance and ensure job satisfaction.

If someone considers that learning is something native, he/she will evade improvement, avoid studying and resign himself/herself to a mediocre professional condition. For those who believe that “*success is learned*” it is a joy to see that the effort of diligent study brings them professional satisfaction, increased self-esteem and fulfillment of the need for growth.

Learning when others do not is a testament to perseverance and self-esteem. It translates into perseverance at work and results in a remarkable attitudinal and behavioral balance. “*In the category of personality traits that can foreshadow the attitude towards work, there is also loyalty, an expression of prosocial behavior. In the consciousness of many people, loyalty and fidelity are personality traits as important as competence*” (Stanciu and Ionescu 2007, 14-15).

There is a complex link between personality and performance and it has been shown that personality has a direct influence on leadership skills and style, team performance and organizational efficiency in general.

Conclusions

In conclusion, we can state the following: knowledge of personality traits involved in carrying out work activities is necessary to establish the agreement between man and work, to determine the extent to which the individual responds to work demands, but also the consequences of their deviations from norms.

Professional success involves a number of personality traits of the individual, communication styles, types of interaction and the type of organizational behavior approached, all of which make their mark on his/her performance and productivity at work (Pipaş 2013, (1393-1401), 1401).

The problem of personality, attitude and organizational behavior is of great importance in modern organizations, being appreciated empirically as essential for the social and professional performance of an individual.

21st century managers no longer form subordinate executors, but a team of personalities and attitudes with various autonomous skills, who fully manifest their own personality, who want to take on new responsibilities and who want and can make easy decisions for the organization even and in the most risky situations.

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General Information Regarding Criminality Related to Political Conditions

Tiberiu Viorel Popescu

Legal Advisers' College of Bucharest, Romania, tpopescu2005@yahoo.com

ABSTRACT: Crime related to political conditions is a rare topic in socio-human research. This issue, at least in terms of state crime, can be paradoxical compared to the role that the state and the political regime have in social organization. However, taking into account the specifics of this type of crime, the mentioned issue can be addressed in criminological studies, starting from the specifics of this autonomous science that benefits its own concepts, different from the concepts with which criminal law operates. In this study we will also assess the extent to which and the situations in which the State as an entity can infringe on social values that it should defend through the multiple levers at its disposal, in the context in which it cannot be subject to criminal law. And, if this was ever possible, what was the social reaction to this circumstance? How can one react to crime related to political conditions whenever it could be identified in one of today's societies?

KEYWORDS: criminal law, criminology, crime, criminality

Introduction

Crime related to the political situation has been a disparate topic in the criminological literature (Gassin 2011, 347-350). Approached as a type of crime specific to developing countries, crime related to the political situation is a topic that can provide interesting benchmarks for understanding the state and dynamics of crime, in countries that have had, or where there are dictatorial regimes, but also in many Eastern European countries. We will clarify in the following the concept of crime related to the political situation (1), its forms of objectification (2) and we will analyze the extent to which we can currently talk about crime related to the political situation (3).

1. Crime related to the political situation

One of the general characteristics of the functioning of archaic societies was the low level of crime. This aspect was explained on the one hand by the small number of members of these companies, which generally did not exceed 25-50 members, and, on the other hand, the low level of crime of these companies was ensured by the management, organization and their functioning, the levers by which the general aspirations coincided with those of the members (Gassin 2011, 323).

The integration into the governance program of the aspirations and needs of their members seems to be a guarantee of the rules imposed by the governors in order to ensure the achievement of the objectives of the program. Although this statement may seem truisms, in communities with large numbers of members, their aspirations are multiple, diverse, and often contradictory, and integrating all of them into a governing program is more of a utopia.

In developing countries, as well as in Western countries with a high demography and citizens with diverse aspirations and motivations, non-compliance with the laws that protect social values at a given time seem more frequent and of increasing gravity. Crime in developing countries is more related to the dictatorships in the area, which shows that the governance of a society is not always in the direction of meeting the needs, interests and aspirations of that community. Faced with such a circumstance, sooner or later there will be a reaction from the members of society and a counter-reaction of the status that sometimes does not identify at all with the legitimate social reaction and sometimes necessary in such circumstances.

2. Forms of crime related to the political situation

Crime in developing countries is more about dictatorships in the area, which splits crime into two terrorism and guerrilla warfare (a) on the one hand and state crime (b) on the other.

a) Terrorism and guerrilla warfare. Terrorism and guerrilla warfare are forms of crime that are distinguished by the targets, persons or goods targeted or by the means used.

Terrorism. Although there is no universal definition of terrorism, the United Nations Security Council, regional organizations and Member State governments have referred to numerous armed groups as "terrorist" groups. The Security Council has imposed sanctions on 80 groups and more than 380 people linked to the Taliban, Al Qaeda and the Islamic State of Iraq and the Levant (ISIL) on the grounds that they are involved in, or supportive of, terrorist activities. The Taliban, Al Qaeda, ISIL and its affiliate Boko Haram were responsible for 74% of all deaths caused by terrorist, insurgent and non-state armed groups in 2015 (World Drug Report 2017, Part V, 34).

It is important to note that acts of terrorism can be committed by a single perpetrator. In the context of globalization, there are important changes in the profile of the "new terrorist" (Stănoiu 2012, 21), who often adopts the tactics of *the lone wolf*.

The means by which terrorists act are in sight, extremely violent, often aimed at public figures, reference targets or social symbols, in order to maximize the state of panic among citizens.

The primary purpose of terrorist acts is to generate a state of terror and chaos in society, so that later, by claiming the attacks, the perpetrators build an identity that could give them, at some point, the opportunity to demand certain claims in political or ideological plan.

Council of Europe Convention on the Prevention of Terrorism signed in Warsaw on 16 May 2005 (Ratified by Law no. 411 of November 9, 2006 for the ratification of the Council of Europe Convention on the Prevention of Terrorism, adopted in Warsaw on May 16, 2005, published in: Official Gazette no. 949 of November 24, 2006), updated on 22.06.2018, at art. 1 para. 1 states that "For the purposes of this Convention, the offense of terrorism shall mean any of the offenses falling within the scope of any of the Treaties listed in the Annex to this Convention, as defined in those Treaties".

The concept of terrorism has not been fully clarified and has not been given a clear definition despite its abundance in legal instruments.

Guerrilla. Guerrilla fighting is a modern civil war, a real subversive revolution initiated and maintained by partisan groups, usually in conflict with public authority. Hostages have become a real business in Latin America. Thus, in Colombia, more than 3,000 people are abducted each year by various guerrillas and exchanged for ransom. This revolutionary domestic activity is sometimes aided by a neighboring country, such as the FARAC guerrillas in Colombia who find shelter in Venezuela.

Without insisting more on this type of crime, we only emphasize that, from a criminological perspective, guerrilla warfare increases the volume of crime and changes its structure.

b) *State crime*. State crime can be understood as the repression of the totalitarian state over criminal actions often without respecting the right to defense that is the basis of today's civilization.

In some developing countries, repression of non-compliance with applicable law has been found. They are often based on exceptional legislation. This repression is sometimes the work of official state bodies or parastatal groups that are protected by existing power. In all these cases we can talk about a state crime, a concept that has recently gained a reputation in criminology (Bossard 1988, 8, apud Gassin 2011, 348).

It must be emphasized that the repression of the Statute can occur without respecting the right to defense not only as a reaction against the actions qualified by the totalitarian criminal state. One of the least publicized cases was the Lebanon Case - 1976, when it was registered among the last

state actions aimed at persecuting Christians. There and then 500 people (men, women and children) who were followers of Christianity without legitimacy were killed. The Maghreb or sub-Saharan Africa are such cases (Guitton 2009, 330, apud Gassin 2011, 349).

3. Crime related to the political situation in the current social and political context

Of the two forms of crime related to the country's political situation, state crime seems, as paradoxical as it is harmful to the interests of citizens or to social balance and progress. However, the question remains whether this type of crime is specific to developing countries, or whether we can find it in other forms in today's democracies.

Liberal democracies have been said in the literature to be a factor in crime. The study of the structure of delinquency in liberal democracies highlights some crimes that seem to be related to their political structure, such as electoral fraud, corruption of political leaders or police officers. All these forms of political crime are part of the revolutionary or subversive wars, present in liberal democracies and related to the political system (Gassin 2011, 455-456).

It must be emphasized that the political system of liberal democracies can be a factor that favors criminality in the political situation, especially in the context of the struggle of political parties to obtain and maintain power, respectively. The financial resources needed to obtain and maintain power can have various sources. One of these sources is the mismanagement of public money that generates black money.

One of the ways in which the ruling political parties in the current European democracies obtain indirect financial resources is by truncating public tenders, especially in the case of awarding construction works. Corruption, tax evasion, money laundering or abuse of office are just some of the crimes that accompany the process that provides the necessary financial resources to the political environment, sometimes carried out with the news or even with its complicity or protection.

Drug trafficking, which we have referred to in previous studies (Popescu 2018a; see also Popescu 2018b, 257-263 and Buzatu 2012), along with human trafficking (Buzatu 2018, 223-234), irrational exploitation of subsoil resources or, more recently, fraud with European money in Europe, are also seemingly inexhaustible resources generating the money needed to gain and maintain power.

We appreciate that the types of crime mentioned have at least a lack of reaction from state bodies. The legislative function has the obligation to react promptly when, against the background of a deficient legislation or a legislative vacuum, conducts are found that infringe the social values promoted by the rule of law, with clear laws that incriminate the mentioned conducts. The executive function must execute promptly and precisely in the legislative policies that seek to ensure order and balance in society. Last but not least, the judicial function must apply the law equally to anyone who is guilty of non-compliance.

In such an environment, the state can ensure the social balance that generates progress. Clear legislative policies, equity in relation to citizens, coherent social assistance measures (where required), are reference systems that can be considered in the prevention of crime related to the political situation.

The correctness and professionalism of the people who populate the state institutions represent the guarantee of their correct functioning; as people are so are institutions, the rest is rhetoric. Ideally, as stated in the literature, it would be that "public authority, acting with perfect correctness and even altruism, would dispel any suspicion of the person in front of him, thus gaining his trust. The person living in such an environment, under the protection of public authority to show unreserved realism. Of course, it is an idyllic form of relationship between public authority and the person, for the construction of which the time of the work seems an eternity. Until then, the person must benefit from safe and effective means of protection from the public authority and correlatively from the commitment of its responsibility - social, political or legal responsibility" (Deleanu 2006, 792).

Conclusions

At present, political crime is a reality in both developing and Western countries. Terrorism, guerrilla warfare or state crimes are various forms that are part of the structure of this type of crime, now found everywhere in increasingly refined forms. In the context in which the State cannot be the subject of criminal law, being the creator and guarantor of the law, we have in mind some landmarks that can prevent crime related to the political regime.

In this sense, we evoke the words of Caesar Beccaria, who stated that “laws are the conditions under which independent and isolated people united in society, tired of living in a continuous state of war and enjoying unnecessary freedom because of the uncertainty of keeping it” (Becaria 2001, trad. V-Ed. 1766).

Crime prevention, said the quoted author, can also be done indirectly, through the way the laws are made and through the way they are respected, mainly by magistrates. Laws must protect classes of people and not individuals, be clear and good, be unequivocal and not defend the interests and privileges of the few. Under these circumstances, people would come to fear the law and not other people.

Legal norms in general aim to order and discipline social relations, to guarantee legal certainty, to eliminate possible conflicts, making peace and stability established (Popa 1996, 223). Legal security, in turn, designates the state of security of individuals and society conferred by legal normality, in compliance with its requirements (Dongoroz 1987, 334).

From a criminological perspective, it can be added that equity and social balance can be objectified by a state policy that values the moral vision of Caesar Beccaria according to which only legitimately acquired wealth can be a proof of skill.

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Managing Supply Chains in a Post-COVID World

John Rocha¹, Kruti Lehenbauer²

¹*DBA Student, University of the Incarnate Word, United States of America, jorochoa2@student.uiwtx.edu*

²*Professor of Business Economics, University of the Incarnate Word, United States of America, Lehenbau@uiwtx.edu*

ABSTRACT: The COVID-19 disruption resulted in reactive and uncoordinated logistics behaviors creating a crisis that impacted the viability of many companies worldwide (Choi, Rogers, and Vakil 2020). The purpose of this study is to suggest how to resolve the issues facing supply chain logistics by first identifying the supply chain disruptions of the past and then analyzing the resulting consequences of these disruptions. We propose to show how fragile the supply chain system in the United States is by demonstrating how existing technologies have not yet been exploited to their full potential, which would help to reduce the vulnerability of supply chains in the United States to new and unprecedented disruptions. We conclude by offering some potential solutions to combat this vulnerability in the supply chain and related logistics by incorporating existing technologies to reduce the impact of future disruptions, whether they are created by policy, by possibility, or by pandemic!

KEYWORDS: COVID-19, Supply Chain disruptions, Logistics, SCM, Technology in SCM

Introduction

The COVID-19 disruption resulted in reactive and uncoordinated logistics behaviors creating a crisis that impacted the viability of many companies worldwide (Choi, Rogers, and Vakil 2020). The purpose of this study is to suggest how to resolve the issues facing supply chain management (SCM) and logistics in a COVID-disrupted world. The pandemic highlighted how global supply chains have been disrupted, creating ripple effects that cross-national boundaries (Yu and Aviso 2020). Interruptions in supply chain management segment are nothing new and has showed our industry how unprepared we are. The focus of business toward increasing efficiency and reducing costs has resulted in supply chains that are efficient during normal times, but at the cost of being vulnerable to disruptions. From time to time, frequent as well as rare catastrophes also disrupt supply chain operations (Stecke and Kumar 2009). These disruptions range from a small plant fire that may affect a small number of local companies to global catastrophes such as the 2002 to 2003 SARS outbreak, which affected the global economy. Regardless of the scale of a catastrophe, the consequences could be severe for a company. Some recent documented major supply chain disruption causes include the West Coast port strike in 2002, the 1999 Taiwan earthquake, Hurricanes Katrina, and Rita in 2005, the Asian tsunami in 2004, and the September 11 attacks in 2001. After the 9/11 terrorist attacks, research has focused primarily on increased security measures to reduce both the occurrence of terrorist attacks and the impact of supply chain disruptions (Lee and Wolfe 2003; Rice and Caniato 2003; Sheffi 2003; Rosoff and von Winterfeldt 2007).

Other smaller catastrophes such as snowstorms, heavy rain, excessive wind, fire, industrial and road accidents, strikes, and changes in government regulations regularly interrupt normal operations in supply chains (Craighead *et al.* 2007). Some disruptions came from technology. For example, the ineffective use of Information Technology (IT) when using supply chain mapping. By using supply network mapping, we avoid relying on human intelligence and increase the dependence on artificial intelligence networks. (Choi, Rogers, and Vakil 2020) and mitigation strategies (Tomlin 2006; Martinez- Albéniz and Simchi-Levi 2009; Swinney and Netessine 2009). Mitigation strategies must be plural since a few strategies can be effective against several different catastrophes.

We propose to show how fragile the supply chain system in the United States is by exploring the history of disruptions in supply chains and identifying the consequences of supply chain breakdown on the economy. Thereafter, we proceed to offer some potential solutions to combat this vulnerability in supply chain and related logistics since it appears that the future and viability of supply chain has not been secured as a result of not taking advantage of existing technologies.

History of Disruptions to Supply Chains and Logistics

Organizations and firms have become more conscious to the fact that they cannot compete with other firms in isolation of their suppliers and other units in the supply chain (Lummus and Vokurka 1999; Banomyong 2005). The economic growth in every country is depending much on its companies, as we can see they are growing locally as well as global business activities. Going global implies that supply chains are no more local (Waters and Rinsler 2014). Christopher (2016), argues that firms spread their operations across the globe sourcing from and selling to different organizations and or people, which adds complexity to the supply chain and if this complexity is not effectively managed it can result in disruptions and higher costs. Local business might be encountering issues pertaining to the domestic rules and regulations, socials, economics, and political areas (Crane and Matten 2016). Those issues can be anticipated by the business institutions as they have experienced them and are therefore, less constrained by them. On the other hand, when considering global business, such factors can go beyond the boundaries resulting in restricted business operations. Thus, less powerful or more rigid businesses will suffer losses and might end up closing their operations.

In recent years, there has been a surge in articles addressing supply chain disruptions, whether they are caused by natural or artificial interruptions to “business as usual.” Craighead *et al* (2007) stated that supply chain disruptions are unavoidable. However, the disruption caused by COVID-19 since January 2020 brings a whole new set of local and global issues that impact supply chains worldwide. COVID-19 could be the black swan event that might finally force companies and entire industries to rethink and transform their global supply chain model. Several events in the past 50 years have not only shaped the development of the supply chain management (SCM) profession as we know it today but will also likely affect developments in the future (Stock 2013). COVID-19 has already exposed the vulnerabilities of many organizations (Kilpatrick and Barter 2020) but it is essential for us to discuss the common types of disruptions in the Supply Chains and how they have historically been handled.

Regulatory Hurdles for Supply Chain and Logistics

By 1933, all states had some form of truck weight regulation. The Federal-Aid Highway Act of 1956 instituted the first federal truck weight regulation (set at 73,280 pounds or 33,240 kilograms) and authorized the construction of the Interstate Highway System. 23 U.S. Code 127 limited the weight limits of trucks using interstate roads to prevent the damage to the roads. This law disrupted the ability of companies to efficiently deliver goods to the end consumer and impacted supply chains. This type of regulation was not unique in the United States and several further disruptions occurred over the next few decades. For instance, during the late 1970s through the early 1980s, the major transportation modes were deregulated through a series of legislative initiatives. The most common ones are the Airline Deregulation Act of 1978, Motor Carrier Act of 1980, Staggers Rail Act of 1980, and the Shipping Act of 1984. These have all played a regulatory role in intervening with existing supply chains and have created circumstances that allowed industries to respond to these interventions in a manner that best met their own and their customers’ needs. This change fostered improvements in carrier strategies and tactics that, in turn, facilitated the implementation of programs such as quick response (QR), just-in-time (JIT), crossdocking, efficient consumer response (ECR), and others (Stock 2013).

When terrorists attacked the World Trade Center in New York and the Pentagon in Washington, D.C. in 2001, logistics and supply chain professionals recognized that the world had become less safe, and organizations were forced to become much more aware of risk and

uncertainty as they affected supply chains. While risk and uncertainty had always been a part of business intelligence and a consideration in decision-making, the terrorist attacks in the United States and in other countries around the world moved these issues front and center. Contingency planning became a requirement rather than something that was "nice but not necessary." Terrorism was not the only concern driving companies to pay more attention to risk. Businesses of all kinds were now operating in a global marketplace with vendors, suppliers, and customers located worldwide, causing the risks and uncertainties to increase significantly. While supply chains had become more efficient, effective, and responsive, they had also become much more complex and more vulnerable to disruptions caused by such things as natural disasters, labor strikes, power outages, political instability, and cyber-attacks on the Internet, to name just a few (Stock 2013). Supply chain management (SCM) executives continue to face unique challenges, with respect to integrating supply chain-specific strategies with the overall corporate business strategy.

In December 2014, a massive regulation was introduced by the Federal Motor Carrier Safety Administration (FMCSA), which is a part of the United States Department of Transportation (USDOT). It primarily addressed the issues of drivers working excessive hours on the road and limited the time that they could legally do so while putting specific constraints on how many hours of rest were required to be logged by the drivers. (49 CFR Part 395 FMCSA). This required a major overhaul in the way drivers and goods were assigned by transportation industries and changed the way they moved goods from one place to another.

In recent years, given changing business realities related to globalization, the supply chain has moved up on the list of priorities for the Chief Executive Officers (CEOs), but it's not always for the right reasons. In many cases, CEOs only pay attention to the supply chain when they want to cut costs or when something is wrong (Bala 2014). Bhatt (2014) argued that for the last two decades, the business organizations are facing unprecedented challenges to improve efficiency or productivity. An example of such push was the Black Monday of October 1987. The event came as a warning to the business world to find better ways to do business and the advent of personal computer added to the competition among the organizations to affect re-engineering. Bala (2014) argued that since supply chain essentially moves the lifeblood of the organization, process efficiency on a global scale is essential to optimized business operations.

Impact of COVID-19 on Supply Chains and Logistics

When critical supply chain disruptions hit, visibility across the supply chain becomes crucial to understanding the impact of the disruption on the rest of the chain so that others in the ecosystem can plan and take action, such as developing routes to alternative suppliers. Because COVID-19 has led to lockdowns, suppliers in the chain are temporarily ceasing production, and logistics providers can no longer transport goods as seamlessly, particularly across borders. The access to the data on inventory, distance, production, and transportation needs to be fast, dependable, and instantaneous to get the first mover advantage in many cases. The companies that have heavily been reliant on paper-based processes are struggling in this time of social distancing and work-from-home conditions to minimize the spread of the virus. Thus, in the current pandemic, governments and businesses with strong digital infrastructure and enabling regulations such e-signature and e-transactions laws, are dealing with the supply chain disruptions much better than those without (Liao and Fan 2020). Pickett (2004) suggested that in a world with increasingly complex and globally dispersed productions, supply chain resilience sets the companies that are likely to succeed apart from their non-lean counterparts.

Industrial production in China has fallen between 13.5% in January and February combined, compared with the previous year (Seric *et al.* 2020). There has also been a simultaneous drop in the demand for intermediate and final goods due to the restrictions on movements of individuals and concerns about health and safety of employees, which has led to factory closures in many places. Thus, it is to be expected that this 'second shock' from the collapse of demand and production in many industrialized economies and the divestment from developing countries will have far more long-lasting effects on global production than the temporary supply chain disruptions caused by

COVID-19 (Seric *et al.* 2020). A substantive nationalization or regionalization of supply chains, however, has the risk to further reduce diversification of suppliers in the world economy. The disruption of global value chains (GVCs) due to COVID-19 may therefore leave as a longer-term legacy: a significant reduction in developing countries' potential to industrialize through linking into global value chains (GVCs) for many years to come. The COVID-19 pandemic calls for increasing our effort towards strengthening multilateral approaches to policy making and assisting countries in opening other ways to enable inclusive and sustainable industrial development (Seric *et al.* 2020).

The effects of COVID-9 have revealed that the SCM field currently lacks the basis for a network perspective that can capture the full complexity of managing globally dispersed supply networks. The SCM field also suffers from an over-emphasis on the operational level of interactions across firms in a supply network, in detriment of knowledge processes that can truly address challenges as complex as the sustainability imperative in the face of disruptions (Marques 2019).

Potential Solutions to Supply Chain Disruptors

The solutions that logistics companies can explore to minimize the impacts of current and future disruptions in the supply chains come with several alternatives. The traditional linear supply chain model is transforming into digital supply networks (DSNs), where functional silos are broken down and organizations become connected to their complete supply network to enable end-to-end visibility, collaboration, agility, and optimization. Hosie *et al.* (2012) argued that the theory and practice of a networked approach to SCM are used to trace the evolution of management logistics. There are measures companies are taking to protect their supply chain operations: align IT systems and support to evolving work requirements, enhance focus on workforce/labor planning, focus on Tier 1 supplier risk, illuminate the extended supply network, understand and activate alternate sources of supply, update inventory policy and planning parameters, enhance inbound materials visibility, prepare for plant closures, focus on production scheduling agility, evaluate alternative outbound logistics options and secure capacity, and conduct global scenario planning (Kilpatrick and Barter 2020). Some of these potential solutions are discussed here.

A. Supply Network Mapping

The integration of Information Technology (IT) by using supply network mapping enables companies to reduce reliance on human intelligence and increase the dependence on artificial intelligence networks. Supply network mapping can be resource intensive and difficult but allows companies to identify exactly which suppliers, sites, parts, and products are at risk when supply chains are disrupted and allows them to secure constrained inventory and capacity at alternate sites efficiently (Choi, Rogers, and Vakil 2020).

B. Radio Frequency Identification

Radio Frequency Identification Technology (RFID) has been around since the mid-1970s. These systems have become widely used on roads, bridges, and tunnels around the world (Violino 2005). Organizations have been critically slow in implementing due to two reasons: cost and in-house knowledge. The use of Radio Frequency Identification Technology (RFID) helps improve supply chain efficiency by providing item-level identification and real-time information. RFID has been more and more utilized in this industry because it offers automatic tracking that creates a high volume of data at high velocity and with high variety, which facilitates real-time decision making as well as to develop rule-based knowledge based on data modeling and analytics. RFID is more operationally effective in replacing barcode technology in PC supply chain management by enabling fully automatic tracking and consequently increasing productivity. The future of SCM with RFID is excellent because of the advancements in the technology.

C. Electronic Data Interchange

One of the ways of integrating IT systems in the supply chain is via Electronic Data Interchange (EDI), which supports the exchange of electronic documents between business partners, while minimizing the time of information flow as well as cooperation costs (Rainer, Prince, and Watson 2014); Bahija, Malika, and Mostapha 2016). Inclusion of EDI enhances SCM because less money is tied to inventory and the transacting parties can efficiently and securely communicate. When created properly, suppliers can audit their data-sharing permissions directly on their own blockchain node. At the same time, their data can be securely distributed to others in the blockchain network without requiring the point-to-point integration that centralized systems do.

D. Enterprise Resource Planning (Enterprise Systems)

Enterprise Resource Planning (ERP) is an integral part of an organization technology (Wang, Hu, and Zhou 2017) and essential for accessing real-time operational information across multiple departments and businesses. The success of ERP adoption depends on external factors that include vendor support, consultant competence, and internal factors within the organization such as ERP team competence, ERP leadership, top management support and finally, the user support. ERP systems assist enterprises in automating and integrating corporate cross functions such as inventory control, procurement, distribution, finance, and project management. ERP systems are designed to integrate business functions and allow data to be shared across boundaries and divisions within the company and gives businesses increased flexibility and allows them to operate more efficiently than before. Effective sharing of information among the supply chain actors allows for production and delivery synchronization, better forecasting, coordination of inventory-related decisions, and the facilitation of a mutual understanding of performance bottlenecks (Rai, Patnayakuni, and Seth 2006).

E. Fourth-Party Logistics

We propose an additional solution, which would be to make a formal move towards fourth-Party Logistics (4PL). To be a Fourth-Party logistics provider, companies will have to develop capabilities that 3-PL are not providing like analytical and decision-support capabilities to analyze and redesign supply-chain flow structures, capabilities in change management, organizational development, and stronger relationships with its business and manufacturing customers. The emphasis is placed on the 4PL providers being a single point of contact for the shipper as an integrated part of the business solution to the client. A fundamental feature of a 4PL provider, which is considered a 'non-asset', is in the principle of being 'neutral' in selecting shipping partners. The goal of 4PL is to achieve benefits beyond the one-time operating cost by reducing the asset transfers gained from a traditional outsourcing relationship. By adopting a holistic approach, 4PL can emerge as a breakthrough supply chain solution by comprehensively integrating the competencies of 3PL providers, leading edge consulting firms and technology providers. Such strategic alliances leverage the skill sets, strategies, technology, and global reach which would otherwise take years to duplicate. As the services for Fourth-Party logistics are continually evolving it is important to draw a fundamental distinction between them. On the technological side, Fourth-Party Logistics (4PL) would use Radio Frequency Identification Technology (RFID), Electronic Data Interchange (EDI), Information Technology (IT) by using supply network mapping. Information technology (IT) plays a key role in disseminating 4PL processes. Hosie *et al* (2012) discussed why businesses should consider and embrace 4PL technologies: expansions of marketing channels, more efficient transportation modes. Accordingly, 4PL's main competency lies in sustaining long-term investment and ongoing benefits once initial cost savings are achieved. As a result of the growth of outsourcing and 3PL services, the complexity of SCM has grown in parallel, to such an extent that it is often a task falling outside the boundaries of company expertise and core competencies. (Richardson and Vitasek 2005).

Manchester (2001) preferred to describe 4PL as 'outsourced outsourcing' while Schwartz (2003) has suggested that 4PL is actually 'extreme outsourcing model' presenting sophisticated, highly coordinated solutions for 1 outsourcing logistics. Companies are gradually realizing that it has become increasingly important in the globalized economy to focus not on just core but also

non-core activities such as management of a long- distance supply chain in order to remain competitive (Win 2008). Conversely, customers can finally realize satisfaction, become more efficient and make optimum logistical decisions.

Conclusion

As logistics and supply chain professionals prepare for the future, they will face a number of challenges and issues. As the COVID-19 crisis persists, we are likely to see companies that fail to evolve in terms of their supply chain management fall to the wayside. On the other hand, companies that heed the lessons of this crisis and make investments in mapping their supply networks, incorporating technologies and artificial intelligence, and going from 3PL to a 4PL set up are likely to be even more resilient to future disruptions. Leveraging advanced technologies such as artificial intelligence, robotics, Radio Frequency Identification Technology (RFID), Electronic Data Interchange (EDI), Enterprise Resource Planning (ERP), are designed to anticipate and meet future challenges. Whether it is a "black swan" event like COVID-19, trade war, the act of war or terrorism, regulatory change, labor dispute, sudden spikes in demand, or supplier bankruptcy, organizations that deploy technology will be ready to deal with the unexpected. These companies will be long term winners.

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Exploratory Research of 4IR Impact in Different Areas of Activity

Florian Răpan¹, Ivona Răpan²

¹ "Dimitrie Cantemir" Christian University, Faculty of Communication Science, Bucharest, Romania,
rapan_florian@yahoo.com

² Romanian Academy, Institute of National Economy, Bucharest, Romania,
stradivonas@gmail.com

ABSTRACT: Recently, in last few months, due to the emergence and amplification of the COVID-19 crisis, Industry 4.0 or the so called 4IR has developed rapidly in various areas of activity such as economic, social, medical, environmental, education, military and not only. This spread of technology has went through among the pillars of sustainability creating new needs, new types of demand and new forms of employment. The labor market has suffered from the replacement of employees with robots and robot process automation (RPA) by eliminating errors, vanishing and generating new jobs. Developing collaborative platforms have led to a new employee salary payment system and to a new way of working among employees. Assisted artificial intelligence operates instead surgeons with high precision. Internet of Things creates a personal network of the individual through which all the objects with which he interacts daily are harmoniously correlated only using a simple Internet connection. Globally and according to the UNO 2030 Agenda, the direction set is to digitize and implement technologies and tools in the Industry 4.0 that will lead to technological progress and the growth of emerging economies and even more growth to the developed ones. The paper comprise an exploratory research, a comparison analysis conducted in different areas of activity to settle the implementation of industry 4.0 within the regions and countries, generating a development ranking progress and forecasts for 2025.

KEYWORDS: 4IR, exploratory research, sustainability, robots, labor market force.

Introduction

Industry 4.0 has infiltrated all areas of activity, bringing benefits especially in the development of sustainability, economic, social and environmental pillars. Currently, the pillars of sustainability are added to the pillars of health, agriculture, education and we have further addressed some of the most important implications that Industry 4.0 has brought with the progress and evolution of technologies. Industry 4.0 is a process of transforming industrial production and markets globally. It is an intertwining of the Internet and digital technologies with the elements of conventional industry. Globally, each country has applied the introduction of Industry 4.0 under various names. Germany supports the 4.0 industrial revolution through strong government and multinational programs such as Siemens and Bosch, the US called the initiative 4IR or Smart Manufacturing, China proposed Made in China 2025, Japan moved to Industry 5.0 and named the process Innovation 25 (www.ttonline.ro). The aim is to increase the speed of efficiency and profitability in the business environment but also the development and transformation of the business environment and industry at a higher level. Continuous digital transformation is the main driver of productivity, especially in an age of globalization, in which nations face competing and disruptive business models on a larger scale. 4IR and component technologies allow not only high-fidelity audio or video streaming, it provides an environment that allows remote surgical operations with dedicated robots, continuous online monitoring live mapping of land to be or are already cultivated 3D prints/D 4D, autonomous vehicles and others.

THE PATH FROM INFORMATION TECHNOLOGY TO PROSPERITY



Figure 1. Prosperity growth strategy using information and communication technology
 Source: Adapted from Atkinson & MCKay, *Digital Prosperity*, 2007a

Industry 4.0 is composed of cyber-physical systems (CPS), the Internet of Things (IoT) and the Internet of Systems and “cloud computing”. 4IR is an industrial revolution of networks, platforms, people and digital technology. “According to university professor Klaus Schwab, the founder and executive director of the World Economic Forum, this phenomenon blurs the boundaries between the physical, digital and biological spheres” (Jademy.ro 2020).

The rapid pace of change in Industry 4.0 and the accompanying disruptions to business models have a major impact on the labor market now and in the future. Distortions due to rapid and successive changes lead to a continuing need to develop new skills and competences requiring considerable adaptation efforts.

In this continuous change, there is the possibility that the organizations will not be able to adapt, and the Romanian labor market will not be prepared for the 4.0 industrial revolution. It is necessary to find a way to regulate new technologies in order to get the most out of them.

This transfer of technology from traditional to digital will generate new needs and concerns about security, increasing inequity and disrupting society.

The evolution due to progress is spreading exponentially bringing changes of impact in each sector of industry. In Romania, depending on the degree of Internet penetration, the changes that the new economy brings are less relevant for the country as it is still considered poorly developed according to Eurostat statistics.

Depending on the development potential of the country, the 4.0 revolution can create phenomena of social inequity, disturbing the balance on the labor market which experts believe that in the future the more skills and competencies they will lead to a higher salary this leading to social tensions. “Information and communication technology (ICT) is an important factor that has contributed to the stagnation of income or its decline for the majority of the population in high-income countries. Demand for super-skilled staff has intensified, while employees with a basic level of education have declined. The result is a labor market with strong demand at both ends, but with gaps in the middle segment” (Jademy 2020).

Technologies cause behavioral changes so that people become addicted to them, and in their absence negative emotional states appear not being able to control without using them. This has a direct effect on consumption and implicitly in the economy. “Transformation and disruptive challenges have something very interesting in terms of human problems, both are human problems, not technological problems” (Li 2015).

Digitization and digital transformation cannot be achieved without digitization. Digitization refers to the automation of a process by digitizing information and managing technology for the purpose of automation.

While digitization refers more to recording systems, digitalization refers to engagement systems and insight systems, which use digitized data and processes. This shows the transition from digitization to digitalization. The resulting effects materialize in the digitalization of an "environment" or a business area, i.e. the digital workplace, where the employee strives to reduce the paper, but the digital workforce also means that everyone works differently, using digital tools such as be mobile devices and technologies that make them mobile and/or using social collaboration platforms and unified communications, digital systems that allow them to work on digital media.

The results are new employment opportunities that are different from the classic ones that require more than digitized data. Business digitalization leads to the development of digital business. Supply chains, storage, delivery, etc. can be digitized. Conceptually, 4PLP (fourth party logistics) appears, i.e. integrative supply chains that manage all the resources, capacities and technologies of the SC (supply chain) of the company and the entire network of suppliers. In general, digitalization is seen as a path to digital business and digital transformation, to the creation of new digital revenue streams and offers at the same time.

All these changes require time, adaptation, to change the data medium but also to the infrastructure being generators of different behaviors. Digital transformation consists of digital data, process automation, connectivity and customer accessibility to the digital environment.

“Digital transformation involves the profound and accelerated transformation of activities, processes, skills and business models to fully capitalize on the changes and opportunities of digital technologies and their impact on society in a strategic and priority manner” (Roy 2015). The process of Digital transformation has a direct impact on the social and economic pillars.

4IR in economics

“The digital economy is the widespread use of information technology (hardware, software, applications and telecommunications) in all aspects of the economy, including the internal operations of organizations (business, government and non-profit); transactions between organizations; and transactions between individuals, acting both as consumers and as citizens, and organizations” (Atkinson and McKay 2007b).

General purpose technologies have three characteristics (Bresnahan and Trajtenberg 1995), are ubiquitous in that they come to be used by most sectors, their performance and price improve

over time and facilitate the invention and production of new products, processes and models business. Technologies such as steam engines, railways, electricity and internal combustion engines are all examples of general purpose technologies that have led to transformation and economic growth in the past called disruptive technologies and they are disruptive to current technologies.

Nano-technology plays an important role at the moment but does not have such a big impact on the economy. The evolution and involvement of ICT technologies have a high impact on the economy, compared to nano-technologies that are not mature enough to stimulate the growth of the global economy.

Basic technologies (memory, processors, storage, sensors, displays and communications) continue to become more powerful, faster, cheaper and easier to use, allowing new applications to be introduced on a regular basis.

As technology continues to improve, it will allow for improvements in a wide range of areas, such as better voice, handwriting, and optical recognition; smarter agents who routinely filter and process information based on user preferences; and expert systems software to help make decisions in medicine, engineering, finance and other fields.

New software applications, such as service-oriented architecture and Web services, allow organizational functions to be broken down into standard, reusable components, significantly improving efficiency. The adoption of digital technologies continues to grow.

Supply chain 4.0 was applied because the COVID-19 pandemic disrupted the supply chain globally. Delivery companies were assailed by long-distance deliveries and the multitude of orders generated during the quarantine period. Many businesses have gone bankrupt unable to survive and keep up with new technologies that would have created development opportunities for them.

There is still a strong reflex to write or print everything on physical media, and in Romania there is no visibility of data on platforms due to the lack of focus on digital technologies but which, nevertheless, courier companies have managed to adapt to the new constraints.

4IR in medicine

Individual IoT devices can continuously monitor vital signs and update the patient's digital medical record in real time. Chatbots can make diagnoses based on the symptoms reported by patients, they can issue prescriptions on request. This system is also implemented in Romania in the Ponderas Academic Hospital in the Regina Maria chain.

3D printing technology has been implemented to provide flexibility in production, being able to produce from different materials, produced for different needs, no need to purchase components, given that quarantine has blocked exports. This means that the delivery time of the product. However, there are also disadvantages, the production of materials used in medicine must be subject to medical regulations and tests for approval. 3D prostheses can be made of bone-like materials to make the patient's limbs functional and responsive.

Another example of the introduction of 4IR is the aging population in Asia, such as Japan and China, generating a growing need in the medical technology sector, creating a niche market for service robots. Japan's Ministry of Internal Affairs and Communications said there are about 36.2 million people who should be 65 or older by 2020. This involves a significant investment in products for 65-year-olds in the region.

The faster the population ages, the more companies will focus on purchasing robots and Artificial Intelligence to take care of such people. An example is the Paro robot designed to treat patients with Alzheimer's (Lillian Hung et al. 2019). On the occasion of the pandemic, in Europe and on the Globe in developed countries, any institution or company seeks to invest in the purchase of disinfectant robots, being necessary to prepare them for specialization for commercial and hospital purposes.

Geekplus Technology Co. this year it launched “Jasmin” and “Lavender” disinfection robots internationally. Lavender is equipped with ultraviolet light for disinfection, Jasmin uses liquid agents for fast and automated sterilization, automatically avoiding obstacles and non-stop in spaces, including warehouses, offices, schools, shops, transport stations and hospitals (The Robot Report 2020).

4IR in Agriculture

According to a study this year in the UK, the demand for agricultural robots will increase by 24.1% by 2024. Several agricultural robotic applications have emerged, including biomorphic drones that model the behavior of bees, which have been demonstrated in the UK. Kingdom.

Robots and drones have major effects on agricultural productivity. Robot applications and biomorphic drones can model the behavior of bees, monitor crops, analyze soils and moisture, automatic tractors that can sow, fertilize and harvest. This technological advancement gives people the chance to dedicate themselves to heavier tasks that require creativity. Small village farms in China have begun to use heavy industrial drones to cultivate water in hard-to-reach areas. There are a number of advantages such as reducing fuel, eliminating workers and transporting them, sprayers are not wasted but calculated accurately.

From trying to reduce the economic impact to responding to increased competition in new markets and meeting customer demand for new products and services, we can expect to see greater international expansion in 2020. de Vuealta (www.vuealta.com) showed that at the beginning of this year 74% of global enterprises were looking to expand into new markets. The future of agriculture is represented by agriculture of extreme precision, autonomous, artificial intelligence, mobile robots, autonomous tractors, machine vision to be able to identify areas or other indicators which will lead to a new way of doing agriculture.

4IR in the military field

By monitoring and observing human behaviors, robots can develop perfect skills by copying human abilities, thus eliminating errors. Specialists have generated an algorithm that allows improvements to the navigation system just by tracking a human-driven vehicle.

The future assumes that the soldier and a joystick can educate robots to better develop human skills by overcoming them. Military researcher Dr. Garrett Warnell gives an example: “When he was in a narrow corridor, the human driver slowed down and drove carefully. After noticing this behavior, the autonomous system learned to reduce its maximum speed and increase the calculation budget in similar environments, this eventually allowed the vehicle to be able to navigate autonomously on other narrow corridors where it had previously failed” (ScienceDaily 2020). “By using autonomous off-road robots such as APPLD, current soldiers in existing training facilities will be able to help improve autonomous systems, simply by operating their vehicles normally” (Xuesu et al. 2020).

Also recently, the use of drones has been found to prevent improvised explosive devices in Iraq and airstrikes in Afghanistan, Pakistan, Yemen and Somalia. Military robots are supposed to play a much more important role in US military operations.

In addition to explosive detection devices, unmanned aerial vehicles are also used, such as Northrop Grumman’s Global Hawk surveillance drones and General Atomics’ Predator and Reaper armored drones. The equipment listed is expensive and does not have to survive for longer periods of time. The US Air Force has created an anywhere and anytime target attack program called the Global Strike Program (PGS). This program has the ability to attack any target in an hour around the world. The Pentagon has also made a statement that will continue to focus on technologies and capabilities relevant to conflicts of intensity such as the ongoing war on terrorism (Robohub 2014).

Conclusions

On the world map, increasing the number of autonomous robot units also requires a slight remote monitoring to change the economy of car design that allows the elimination of the driver on the vehicle and which underlies the concept of ROI.

So, whether it's production lines, surgical theaters or theaters of war operations, in agriculture, health, robot applications help provide innovative and reliable working methods for everyone involved. 2020 is the year of far-reaching global development and expansion of robots.

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Online Exchanges and Inquiry-based Learning: Implications for Nurturing Learners' Intercultural Communication Skills

Murod Ismailov

*Assistant Professor, University of Tsukuba, Centre for Education of Global Communication, Japan
ismailov.murod.gm@u.tsukuba.ac.jp*

ABSTRACT: With the advance of the Internet technologies, online international exchanges are becoming an essential element of teaching and learning communication and collaboration. Some virtual exchanges focus especially on developing learners' intercultural communicative competence. One of the main challenges for learners engaged in this form of virtual exchanges is that not all participants may be familiar with specific aspects of *their own lingua-culture*. This conceptual study attempts to develop an inquiry-based model of online intercultural exchange by incorporating the 5E Learning Cycle Model which includes learning stages, such as engagement, exploration, explanation, elaboration, and evaluation. We argue that the combination of online intercultural learning and inquiry-based learning could help facilitate sharing of a more authentic lingua-cultural knowledge between online partners. Also, the inclusion of the elements of inquiry-based learning in online international collaborative projects might have a positive impact on promoting informed intercultural exchange.

KEYWORDS: online exchanges, intercultural communication, inquiry-based learning

Introduction

The main objective of online intercultural exchanges is not merely to provide a platform for language practice, but to promote the development of intercultural communicative competence among learners (Byram 1997) through interaction, exchange (Belz and Thorne 2006), and structured tasks (O'Dowd and Waire 2009). In other words, the aim of online exchanges and, more broadly, foreign language instruction, is no longer to produce near-native speakers but, in the words of Byram (1997, 12), intercultural speakers who can 'see and manage the relationships between themselves and their own cultural beliefs, behaviours, and meanings [...] and those of their interlocutors. However, our examination of existing online intercultural exchanges suggests that the intra-cultural learning aspect of online exchange is the least academically researched.

Online intercultural exchanges place greater emphasis on the development of intercultural communicative competence but, in the majority of the works reviewed, rarely takes into account *the possibility that learners engaged in online intercultural exchanges may not have sufficient awareness of their own lingua-culture*. Research in online intercultural exchange reveals that many teachers and facilitators continue to 'teach the same thing in a different way' (Kern, Ware, and Warschauer 2004) failing to help learners revisit the cultural precepts and phenomena within their own cultures. In this paper, we will address this conceptual problem by developing a model which incorporates inquiry-based learning into online intercultural exchanges.

Literature review

The introduction of the concept of intercultural communicative competence has led to a focus on raising learners' awareness of how their own cultural background and assumptions may impact their attitudes towards and communication with people from other cultures (Alred, Byram, and Fleming 2003; Corbett 2003). A key characteristic of intercultural communicative competence is the fact that it prepares learners for exposure to all cultures, including their own (Mughan 1999, 64). This is where the notion of intra-cultural communication gains prominence; thus, at least in theory, it should emerge as a crucial component in online intercultural exchange projects.

Learners acquire knowledge of their own language and culture dynamically, and the search for new knowledge stems from their motivation, expertise, and future career choices, especially among professional linguists and public speakers (Breen 1985). This is also true with regard to online intercultural exchanges from which participants gain original insights of not only their peers' language – manifested in the way they speak, pronounce words, and form expressions –but also their culture – the way they live, do things, articulate ideas, and understand concepts (Lamy and Goodfellow 2010). Many participants of online lingua-cultural exchanges share information about their language and culture based on their pre-existing, often limited, lingua-cultural knowledge.

Paradoxically, the abundance of highly specialised but easily searchable knowledge on the Internet (Jones and Kucker 2001) for anyone possessing a smartphone or computer may be the reason for Internet-mediated language exchanges eventually turning into a demotivating activity in which participants' expectations of new cultural and linguistic knowledge are not met during online intercultural exchanges. Thus, online language and intercultural exchanges should be designed considering learners' awareness of their own culture and language, its uniqueness and originality and, importantly, the level of knowledge credibility to be shared between online exchange partners. Byram (1997, 53) proposed the concept of 'critical cultural awareness', defined as an ability to evaluate critically and on the basis of explicit criteria, perspective, practices and products in one's own and other cultures and countries. Similarly, Risager (2007) suggested that intercultural competence comprises knowledge, skills, and attitudes at the interface between several cultural areas, including the students' own culture and a target culture.

Our review of the literature showed that online intercultural exchanges to date have been extensively studied in relation to intercultural communication, but no major studies have been carried out to explore a systematic connection between online exchange and intra-cultural communication and learning. In the next section, we introduce the inquiry-based model of online intercultural exchanges aimed at filling this gap, thus yielding both conceptual and practical implications for designing online intercultural exchanges.

Incorporating Inquiry-based learning into Online Intercultural Exchange

Existing cases reveal that online intercultural exchange necessitates the presence of two or more linguistically and culturally distinct groups of individuals whose goal is to learn about each other's language and culture through various Internet-mediated activities, such as information exchange, comparison and analysis, and collaboration and product creation. In this conventional form, learners on both sides consider themselves representatives of their culture and native speakers of their language, viewing each other as possessors of authentic cultural and linguistic knowledge. We encounter four problems related to this approach, as shown in Figure 1.

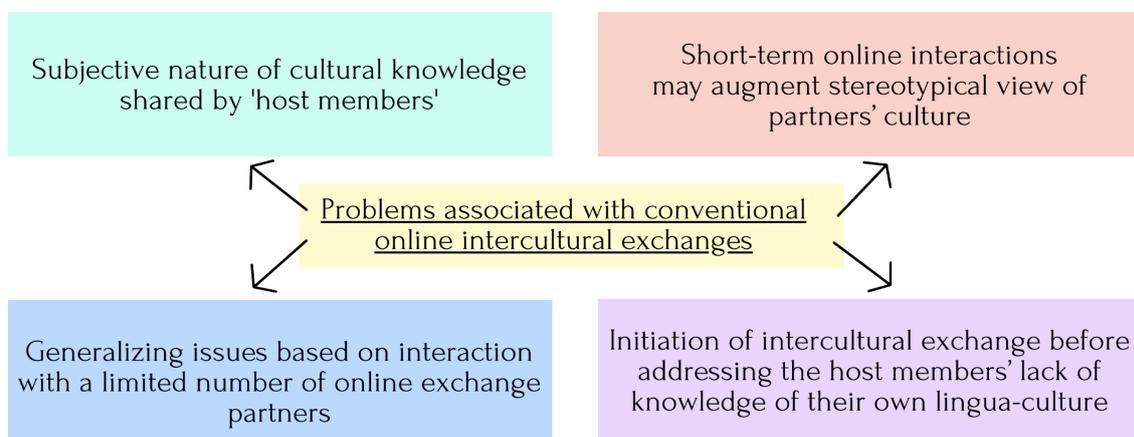


Figure 1. Problems associated with conventional online intercultural exchanges

These combined problems present a challenge in the effective use of Internet-mediated tools for developing intercultural communicative competence. The modern multimedia-rich Internet offers enough terabytes of knowledge on any of the world's cultures and languages to render the whole idea of online intercultural exchanges more burdensome to some learners, unless there is a framework that could help online exchanges pro-actively develop intercultural communicative competence. Addressing this question brings us to intra-cultural communication and learning, or to be exact, their paucity in the design of most contemporary online intercultural exchange projects.

One important yet insufficiently explored area concerns the relationship between inquiry and the creation of a new lingua-cultural knowledge. In our proposed model, we closely examine inquiry-based learning because it represents a more systemic and scientific way of constructing new knowledge by following certain procedures, methods, and practices (Keselman 2003). Inquiry-based learning according to Pedaste et al. (2012) is a process of discovering new causal relations, with the learner formulating hypotheses and testing them by conducting experiments and/or making observations.

Despite the numerous variations in learning cycles, the one used in this study is the 5E Learning Cycle Model (Bybee et al. 2006; Bybee 2009) in which each phase is highlighted using five words: engagement, exploration, explanation, elaboration, and evaluation. This approach is useful for designing inquiry-based online intercultural exchanges because it provides a format that builds on what learners already know. Since the average host members already possess some knowledge of their lingua-culture, the 5E Learning Cycle Model helps them revisit that knowledge from other angles and find new patterns and relationships. Moreover, the experience of undergoing all five phases enables online exchange participants to develop their understanding of a concept across time. Below, we describe the five phases of inquiry-based online intercultural exchanges that have been modified from the 5E Instructional Model.

- (1) *The engagement phase:* In this initial 'inquiry' phase, teachers work closely with their students to evaluate their prior knowledge and identify possible gaps in their current understanding of the topic. The key is that students at this phase are focussed on the knowledge and knowledge gaps relating to their own culture and society, not those of their online partners.
- (2) *The exploration phase:* The students now proceed to the 'core' inquiry phase, involving an active exploration of the issue in the context of their own culture. In other words, they begin building essential intra-cultural knowledge by searching for authentic information.
- (3) *The explanation phase:* The explanation phase signals the beginning of the 'online exchange phase', in which learners from project countries (cultures) connect with the aim of explaining the results of their intra-cultural inquiry.
- (4) *The elaboration phase:* The activities in this second 'online exchange' phase are designed to help exchange partners continue to collaborate in order to apply their new understanding of cultural concepts (similarities and differences in parenting cultures between two countries) shared by each country member. Students are encouraged to compare notes with their peers or formulate new observations of the concepts they have acquired.
- (5) *The evaluation phase:* The evaluation phase may take different forms, it may continue as an 'online exchange' activity or students may return to their respective classrooms to assess the project's achieved objectives. The aim is to encourage students to reflect on what they have learnt about their own and their partners' culture, pose questions, and illustrate their knowledge (understanding) and skills (abilities).

Conclusions

These five phases of inquiry-based online intercultural exchange represent a holistic framework that can practically help foreign language learners gain in-depth knowledge of their own lingua-

culture in order to support more engaging intercultural communication with peers on a global level, and develop essential skills of inquiry and evidence-based knowledge sharing. The future development of this model could demystify the image of ‘inquiry-based learning’ as a method used mainly in science labs, instead promoting it as a practical and effective learning method in social sciences and humanities.

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Considerations on the Vices of Consent at the Conclusion of the Civil Legal Act in Romania

Cristian Dan

“Dimitrie Cantemir” Christian University of Bucharest, Faculty of Juridical and Administrative Sciences – Law, Romania, danrcristian@gmail.com

ABSTRACT: Any civil patrimonial report born, modified or extinguished and of great value is concluded by one person, in the case of unilateral acts, or several persons in the case of bilateral or multilateral acts. The legal act, however, in order to be valid, ends with the observance of the essential conditions to produce its effects in exactly as the parties agreed at the time of their manifestation of will. However, even with the best of intentions, there are situations where the act is affected by certain vices of consent such as error, and other times when at least one of the parties pursues a hidden interest and uses certain malicious maneuvers or even violence to cause the other party to conclude a legal report. In these circumstances, if the vice is proved, the act thus concluded entails the sanction of relative nullity. The paper aims to analyze each of the vices of consent to the conclusion of legal acts from the perspective of civil law related to the legislation in force in Romania and the fundamental law of the Romanian state, viewed from the perspective of other branches of law closely related to civil law. Some conclusions at the end of the paper will aim to combine the four vices of consent and explain its entire content.

KEYWORDS: civil law, violence, deceit, error, injury, vice of consent, civil legal act, administrative act, manifestation of will, relative nullity

The need to conclude civil legal acts

During its evolution, the human being has diversified its activity, in order to support and develop life. Thus, if at the beginning of his development man could satisfy his primary needs only by performing solitary and long-term activities, in time, this way of existence was not enough. In this way the need arises for the relationship between the members of the species and, therefore, the tribal population begins to create primitive legal relationships within the community (Marr A. 2012, 68).

Some of them are still found today in exactly the form in which they appeared, such as mutual aid, low-value community loans that do not require the conclusion of a contract in this regard, and the performance of charitable services and so on far away. Other such relationships have undergone changes over time, reaching to be concluded only after the express expression of the will between the addressees of the respective act.

Thus, in Rome, in the classical period, civil legal acts are attested in incipient form. These consisted of a simple question and an answer, and their conclusion was made in a solemn setting using solemn formulas that had to be known by the parties concluding such relations (Molcuț and Cernea 2013, 186).

At that time, the legal acts were concluded bilaterally, namely the manifestation of will had to come from two natural persons who expressed their desire to conclude the legal relationship in the form and framework required at that time.

During the evolution, other forms of legal acts appeared that required the observance of other norms that regulate the valid conclusion of civil relations. Thus, nowadays there are contracts that can be concluded unilaterally, bilaterally or multilaterally.

In addition to legal relations born between individuals, in our era there is also the possibility of manifestation of will that comes from legal entities, communities of people formed on the basis of a purpose and pursuing certain common goals.

However, not every person who concludes civil acts in the form and conditions provided by law does so in good faith. In these situations there is a discrepancy between the manifestation of will of one party and that of the other party or parties. These dissociations are called consent vices and are sanctioned by law (Trușcă and Trușcă 2016, 165).

Essential elements in conclusion of civil legal acts

Any Romanian civil legal act that is validly concluded must comply with certain conditions in order to produce its effects. The elements that such an act must comply with are the ability to conclude the civil act, the consent of the person or persons concluding the act, its object must be determined and lawful and the purpose for which it is concluded must be moral and lawful (Boroi and Angheliescu 2012, 114).

The ability to conclude such an act refers to the discernment of persons who express their express will in this regard. In Romania, the civil law stipulates that the person can conclude any kind of act from the age of 18 when he acquires full capacity to exercise, except in cases where the documents are of little value, in which case they can be concluded by the person who has only usability or acts that can be concluded by minors with limited exercise capacity, but only with the consent of guardians or guardianship courts (Truşcă and Truşcă 2017, 112).

The object of the civil legal relations concluded in solemn forms represents the basis of the manifestation of will of the parties in relation to the conduct that the parties must adopt in the relation between them. It must comply with the legal norms in force and must not seek to violate the freedom and rights of citizens or any other harmful form from a legal point of view, and the conditions for its fulfillment must be determined (Chelaru 2012, 137).

The purpose for which the civil relationship is born between the parties that express their will to form such acts is the material basis, namely what is sought to be obtained from the conduct of the parties. He must be in full agreement with the legal norms, with good morals and must not prejudice any of the parties to the act or other persons who are not involved either directly or through representation at the conclusion of the civil relationship (Păiuşescu 2016).

Last but not least, consent is one of the most important elements of the validity of the civil legal act. If there is no room for interpretation as to the legal validity of such an act in respect of the others unless all the parties either did not know the illegality of the object or purpose of the conclusion or were in bad faith at the time of the birth of the will, in the case of consent there are certain means by which it can be obtained by using means called vices of consent and which are usually known by one or more of the parties and used against the other party or parties (Ungureanu and Munteanu 2013, 151).

Vices of consent on the valid conclusion of civil legal acts

There are certain situations in which a person's consent to his expression of will at the conclusion of civil legal acts may be constrained to be given by certain illegal means such as violence, malice, injury or error. In these cases, the person manipulated to form such civil relations is violated his freedom to dispose of his own discernment and his civil rights as they are enunciated in the Romanian Constitution (The Constitution of Romania, The European Convention for Human Rights, The Chart of Fundamental Right of the European Union, Edition 10th 2018, Chapter II, Article 22).

Violence, when uttered, is subject to violation of civil law. In Romania, the threat of harm to the person in order to persuade him to consent to the formation of a legal relationship is prohibited by law, and the Civil Code expressly provides for this fact and the sanction in case of non-compliance (Truşcă and Truşcă 2016, 171).

This vice of consent can be of several kinds depending on the direction in which the threat is heading. Thus we can talk about physical violence, when a person is promised that his health and physical integrity will be affected or with moral violence if the promise of action is directed towards the image, honor or honor of the person.

However, not every threat is a vice of consent. In order for such an action to be possible, the promise of harm must be directed against the person or members of his family, it must be an essential factor in concluding the legal act without which it would no longer take place and be made with clear intention being able to prove this last aspect (Ungureanu 2013, 217).

It should be noted that in the case of violence, it is limited to the verbal threat without the actual action, and if it is carried out, the act falls outside the scope of Civil Law and enters the field of Criminal Law and will be sanctioned according to provisions of the Criminal Code (New Criminal Code. New Criminal Procedural Code, 2014, The Special Part, Title I, Chapter II, Article 194).

As regards deceit, it is characterized by the fact that one or more of the parties to the contract knowingly deceives the other party or parties by either misleading as to the object or purpose of the act or by concealing essential elements which, if any, known by the recipients, their consent would not have been given (Ungureanu 2013).

An example of such a vice is that a property owner who wants to sell that home proves to be in bad faith when he hides from the buyer the quality of the materials used or any problems the home has and which if known would be could cause the buyer to stop signing the sale-purchase contract.

The use of malicious maneuvers may not be called into question when either the party or parties accused of using such techniques is unaware of the circumstance in which the error occurred or the party or parties claiming to have been misled they knew right from the moment the report was drawn up all the details regarding the thing that is the object of signing the deed.

In these circumstances, the burden of proving the guilt falls on the person or persons who declare they to be the victims of malicious manipulation, and this fact must be proven thoroughly so that the legal act no longer produces its effects.

Another vice of consent is the injury which designates those situations in which, due to favorable circumstances, one of the parties to the legal act exaggerates its value, forcing the other party or parties to pay a much larger sum of money than would normally be required (Truşcă and Truşcă 2016, 168).

One can exemplify in this regard the situation in which the executor of a cyber assistance service, given the fact that the potential client is in a borderline situation where he urgently needs the repair of a certain computational error and knowing the lack of alternatives, asks for the provision of that service a certain amount of money which is the equivalent of three times the amount which would normally have been required for the performance of such a service. But the most common vice of consent invoked in civil proceedings for termination or termination of contracts is error. This is also due to the fact that all parts of the act may fall under its incidence, even if they were in good faith.

By mistake is meant a situation in which one of the parties believes that it is concluding a civil act, and the other party or parties believe that it is participating in the birth of a different legal relationship.

Depending on the essential element that is affected by the error, they fall into several categories. There is an error regarding the person when one of the parties believes that he concludes the legal act with a person, but in reality the rightful owner of the property is someone else, the situation in which a person believes that he will receive a certain thing by forming the legal relationship. in fact, it receives something completely different, if a person expresses his harsh consent to the purchase of a certain thing that proves to be of a questionable quality compared to his contract specifications and even circumstances in which a person believes that he concludes a certain type of legal act. , and in reality participates in the conclusion of another type of act (Boroi and Anghelescu 2012, 123).

Not only civil acts are affected by this vice of consent, but also administrative acts may be subject to error. A conclusive example would be where a public authority wants to hire a legal person to carry out works, following a public tender. When drafting the contract, the legal person stipulates the performance of a different work than the one for which the civil servant endowed with the contracting authority chose that legal person, in which case the error on the object of the act occurs (Cliza and Ştefan 2017, 135).

Sanctions in case of vices of consent

In general, any vice in consent which is proved and which was knowingly made at the time of the conclusion of the legal act leads to the sanctioning of that act with its relative nullity. This means that the manifestation of will of the parties, initially externalized, continues to exist, and the legal relationship thus concluded continues to produce its effects, but only in the case of those objects of the contract that were not affected by that vice of consent (Cliza and Ștefan 2017, 137).

If one of the Contracting Parties considers that the act which it has signed has been affected by a vice, by addressing the civil courts having jurisdiction to rule in such situations, it may obtain the annulment of parts thereof. In order to be able to do this, it is necessary for the party that declares itself to be the victim of non-compliance with the essential conditions to prove what is stated (Chelaru 2012, 149).

The evidence brought in court must be conclusive, namely comply with all the necessary conditions for the existence of a vice in consent: be essential for the expression of the agreement of will, be a violation of the law, be determined and cause damage of any kind on the bona fide contractor.

Conclusions

The evolution of society has felt the need for collaboration between members of the human species, by concluding legal relationships that have facilitated the evolution and support of life. These relationships have diversified according to the degree of technologicalization and development of the human being. Thus, the citizens of the communities began to conclude civil legal acts.

At the beginning of civilization such acts were concluded bilaterally, in a simplified form, in solemn processions and through specific formulas to be uttered by the parties and consisted only of question and answer.

Along the way, the simple solemn procession was no longer enough, so the manifestation of will expressed on material support appeared and which presupposed strict rules that had to be fulfilled in order for them to produce their legal effects.

Nowadays, legal acts can be concluded unilaterally, bilaterally or multilaterally and can be concluded by both individuals and legal entities, but not all those who express their will to form such civil relations are in good faith.

Of all the essential elements in concluding acts, capacity, consent, object and purpose, the second is frequently affected by the use of means which may be called vices of consent and which are violence, malice, injury and error.

Vices of consent, when proved before the courts which are competent to adjudicate such proceedings, are sanctioned with relative nullity, namely the annulment or exemption of the debtor from his obligation, only in the case of those elements which have been affected by the proven vice and the burden of proof falls on the person who claims to be the victim of the means used to determine him to conclude the act.

These vices are found not only in Civil Law, but also in Administrative Law when concluding acts between legal entities and public administration bodies and are closely related to constitutional rights and freedoms.

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Dancing into Dual Leadership

Susan Figeac¹, Dr. Kruti Lehenbauer²

¹*DBA Student, University of the Incarnate Word, United States, figeac@student.uiwtx.edu*

²*Professor of Business, University of the Incarnate Word, United States, Lehenbau@uiwtx.edu*

ABSTRACT: The source of revenue for nonprofit performing arts organizations has shifted over time with the continuous reduction of government support. Nonprofit performing arts organizations are faced with the dilemma of financial and organizational sustainability while continuing to pursue artistic freedom. Companies in the performing arts industry are typically structured with a “dual leadership” and a dual mission: artistic and operational. This study addresses the influence of leadership structure and board member involvement on the financial performance of nonprofit dance organizations. This study expands on previous research and analyses the impact of leadership structure on unearned and earned revenue sources in the dance sector. The first portion of this study comprises of a literature review that explores existing research on leadership structure, board member influence, and revenue composition in nonprofit organizations and identifies if the dance sector performs as expected, in general. In the second portion, we perform a regression analysis exploring the relationship between revenues and leadership structure for a sample of 135 dance organizations based in Texas. We find that while the literature supports a dual leadership model for maximizing revenues, the simple linear base model estimates do not conform to this expectation for dance organizations in Texas. However, the estimates obtained from a log-linear model, suggest that dual leadership and board member participation contribute positively and significantly to the financial performance of those organizations.

KEYWORDS: dual leadership, non-profit dance, sustainability, regression analysis

Introduction

Nonprofits are being forced to become more business-like in their operations with a decline in attendance and reduced funding (Williams and Keen 2009). The source of revenue for performing arts has shifted over time with the continuous reduction of governmental support (Smith 2003). The National Endowment of the Arts (NEA) suffered a dramatic cut in legislative appropriations from \$175.9 million in 1992 (its highest level) to \$99.5 million in 1996 (Smith, 2003). Nonprofit organizations earn about half of their revenue through ticket sales and fundraising events while private sector contributions make-up about a third of the total revenue with government funds providing the remaining 16 to 17 percent balance of their budgets (Americans for the Arts 2013). Reductions in governmental and state funding are forcing the leaders of nonprofit organizations to become more proficient with operations while maintaining their mission (Kuenzi and Stewart 2017). Nonprofit leaders are being forced to become more efficient and businesslike and are implementing new adaptive strategies to include staff reductions and searching for new sources of revenue (Mosley, Maronick, and Katz 2012; Suarez 2010).

Because of reduced source funding, dance companies of all genres face the reality of a short life cycle. Dance industry growth in the 1990s saw a decline with a reduction of dance organization start-ups and an increase in closures at the close of the decade (Smith 2003). As a direct consequence of these reductions and closures, government funding of the arts began rising steadily since 1996, and in 2018 the federal agencies appropriated close to \$153 million to the National Endowment for the Arts (NEA 2019b). Dance companies were awarded only \$3.9 million in grants or 2.6% of total appropriated NEA funds (NEA 2019a). Thus, dance companies have had to become increasingly dependent on ticket sales, fundraisers, and donations from individuals and corporations to support their budgets and artistic goals since the 1990s (Smith 2003).

The leadership structure of dance organizations is typically comprised of two leaders otherwise known as the “dual leadership” model. The prevalence of dual leadership in arts organizations arises from the dual mission of “artistic endeavors” and “organizational administration” (Reynolds, Tonks, and MacNeill 2017). While the artistic director in a dance company is responsible for overseeing the season’s performance and repertoire, the executive or managing director is responsible for all operational support functions necessary to keep the organization going (Reynolds, Tonks, and MacNeill 2017). Nonprofits also rely on the Board of Directors and board members to help steer the organization towards a sustainable future (NCN 2020). A collaborative leadership strategy is further supported in the Smith (2003) report on public funding deficits where nonprofit performing arts leaders are faced with the need to increase ticket sales and private donations while upholding the artistic mission.

Dance organizations are faced with the dilemma of financial sustainability while continuing to pursue artistic freedom. There sometimes is a conflict between mass entertainment and artistic values, which comes with the risk of reduced ticket sales and private donations (Beard 2012). Herein lies the conflict between what is best for the organization: following the mission or adapting to change to maintain financial viability (Reid and Karambayya 2009). A performing arts organization with dual leadership may differ on organizational priorities. The artistic director may argue for innovative and creative programming to meet the organization’s mission, and the executive director may suggest programming accepted by a broader audience to increase revenue (Beard 2012).

The purpose of this research study is to determine if a dual leadership structure has a positive impact on the financial performance of dance institutions in the state of Texas. This study also examines the impact board member size has on the financial health of dance organizations. This study is limited to the leadership structure and does not focus on leadership capabilities and educational background. This research builds on the empirical investigation by Beard (2012) that explores the relationship between dual leadership and its effect on financial performance in the nonprofit performing arts sector to include theater, music, and dance. Beard (2012) noted that a random selection of a “performing arts” study sample made peer benchmarking difficult. This study improves on the sample selection with a focus on a subset of performing arts - dance organizations in the state of Texas. The study also expands on the financial variables previously used to evaluate the relationship between financial performance and leadership structure, dual versus single and the composition of the board. The financial performance metrics included in this study are net income, total reported revenue, total calculated revenue, and net expenses.

The study is divided into two phases; the first phase is a literature review to identify the implications of dual leadership, board member size and revenue sources on financial performance. The second phase of the study is a quantitative analysis of the impact of leadership structure on the performance of relevant financial variables.

Literature Review

The purpose of this literature review is to explore the theory and supporting studies that address the benefits of a dual leadership structure and board member involvement on the financial stability of nonprofit organizations. The literature review also explores the importance of diverse nonprofit revenue sources and the influence these sources have on the financial viability of performing arts organizations.

Dual leadership theory argues that as organizations gain complexity, they may require two mutually supportive leaders to be effective (Etzioni 1965). The theory also suggests that groups become more effective in terms of task-achievement and members' satisfaction when directed by both instrumental leaders and expressive leaders (Etzioni 1965). It further suggests that while a single person might provide these two kinds of leadership, this tends not to be the case and with

two leadership roles, mutual support is required for effective leadership (Etzioni 1965). Etzioni's theory was tested in a study examining the influence of a co-CEO structure on corporate social responsibility and irresponsibility (Hasija, Ellstrand, Worrell, and Dixon-Fowler 2017). The authors tested the hypothesis that organizations led by co-CEOs demonstrate higher corporate social responsibility than those led by one CEO (Hasija, et al. 2017). The study findings show that firms with co-CEOs resulted in higher corporate social performance than organizations with one CEO (Hasija, et al. 2017).

Beard (2012) provides an overview of dual leadership structure in the performing arts sector. The dual leadership structure is typically comprised of an artistic director and an executive director. The creative director is usually responsible for producing the repertoire of an organization, while the executive director is responsible for support functions such as finance, marketing, and other operational aspects of the company (Beard 2012). Dual leadership also has a potential for conflict, but in the performing arts sector, it helps manage competing priorities between artistic and administrative needs (Beard 2012). Each member of the duo may exhibit distinct characteristics or traits, the artistic director with more creative tendencies where the executive director is more rational and ordered (Beard 2012). Beard (2012) analyzes the potential for conflict between the innovation and the financial limitations in achieving the artistic goals, by focusing on the impact of dual leadership on the budget process and financial performance in a mixed-method exploratory research design. The study measures the effect of dual leadership on the budgeting process and the revenue structure of national performing arts organizations using two dependent variables, the program-to-total-revenue ratio and the ratio of contributed-to-total revenue; and findings show a significant relationship between a dual leadership structure and an increased percentage of program-to-total revenue (Beard 2012).

Provan (1980) performed a study on 46 human service organizations on the importance of a powerful board of directors and their influence on source funding. In this study, the power of the board of directors is measured through several characteristics such as prestige, size, external and internal linkages to the organization, and it was found these attributes are strong predictors of the boards power to acquire higher funding for the agencies they serve (Provan 1980). Pins (2011) performed a correlational survey study on 589 nonprofit organizations in Texas and examines the relationship between the board members personal financial contributions and the organizations financial sustainability. The study's literature review suggests board member relationships have a positive impact on fundraising, funding sources and funding techniques (Pins 2011). The study findings support the literature with a strong correlation between contributing board members and the organizations' financial sustainability (Pins 2011). The results also show that contributing board members are successful in attracting external funding (Pins 2011). Both studies demonstrate a strong relationship between board member attributes and contributions to the financial health of nonprofit organizations. This study uses the board member size attribute to evaluate board member influence on the financial performance of nonprofit dance organizations as supported by the literature.

There are two types of income that accrue to dance companies, income earned through ticket sales and unearned income that is obtained from public and private contributions (Smith 2003). Smith (2003) demonstrated that there is a high positive correlation between contributions (donations) and ticket sales. Dance organizations, such as ballet companies attract larger audiences and consequently receive higher private contributions and public funding when compared to other genres of dance companies (Smith 2003). Revenue structure is identified as a significant predictor of financial performance and is further supported by Carroll and Stater (2009) that confirmed that revenue diversification in nonprofit organizations leads to greater stability and reduces volatility. The study used NCCS nonprofit data for the 1991-2003 period and a regression model was estimated to measure the effect of revenue diversification in the volatility of revenue structures (Carroll and Stater 2009). The revenue variables included in the

regression analysis were donations (unearned income), earned income, and investment income (Carroll and Stater 2009).

Our analysis of the literature demonstrates that for non-profit organizations in general a dual leadership model has positive impacts on both earned and unearned income. In our study, we will be focusing on individual revenue sources such as fundraising, gross receipts, gifts, grants, and membership fees and identifying if a dual leadership model positively contributes to these sources of income for dance organizations in Texas.

Data and Methodology

For our statistical analysis, we gathered data on relevant variables identified from the literature for dance institutions in the state of Texas. We collected information on 138 dance institutions in Texas from the National Center for Charitable Statistics Database, which holds the tax information obtained from the 990-tax forms (NCCS 2019). We were able to obtain information on net income, gross revenues, total revenues, and ownership from the NCCS dataset for the year 2015 for 138 dance organizations located in Texas. Data on leadership structure to include single or dual leadership and the composition of the Board of Directors and members for these 138 organizations was collected either from GuideStar or the organization website (when available) as recommended by Candid (2019).

Our primary hypothesis is to evaluate whether the type of leadership has an impact on the financial health of an institution. To meet this goal, we create a series of regression models with various financial health variables as the dependent variables and the type of leadership as the primary independent variable. Based on the literature, we also found that the presence or absence of a Board of Directors and members can impact the financial health of institutions (Pins 2011). Thus, we create our models as follows:

$$Y_j = \alpha_{0j} + \alpha_{1j}X_{1j} + \alpha_{2j}X_{2j} + e_j \quad \dots (1)$$

where Y_j represents the various dependent variables such as net income, total reported revenue, total calculated revenue and net expenses for the companies, X_1 is a binary variable representing the type of leadership, X_2 is a numerical variable representing the total number of board members in the institution, e_j represents the random errors, and α_i represent the corresponding coefficients for X_i . Since literature typically uses logarithmic transformations for financial variables (Tinkelman and Mankaney 2007), we also estimate the following models to test our hypotheses, where the β_i represent the coefficients of the log-lin models of each type.

$$\ln Y_j = \beta_{0j} + \beta_{1j}X_{1j} + \beta_{2j}X_{2j} + e_j \quad \dots (2)$$

As mentioned above, we collected information on a sample of 138 Texas-based dance organizations from NCCS (2019). The database is filtered to exclude all public charities other than those located in the state of Texas. Each organization is classified using the National Taxonomy of Exempt Entities (NTEE) developed by the NCCS and adopted by the IRS (Candid 2019). The classification selected is “A,” defined as “Arts, Cultures, and Humanities.” The subclassifications selected under “A” the NTEE codes are: A62-Dance, A63-Ballet, and A90 Art Service Activities, Organizations. The non-random selection of performing dance organizations in a specific region will improve peer benchmarking, one of the limitations noted in Beard’s (2012) study. The primary data collection method is the extraction of income tax (990) data from the National Center of Charitable Statistics (NCCS 2019). The central database file used for this research is the `nccs.core2015pc.csv`, which contains over 183 variables obtained from Form 990 files for over 367,000 organizations (NCCS 2019). The secondary data collection method is GuideStar or organizational websites, which contain information on the names and titles of

organizational leaders and board members (Candid 2019). Three out of the 138 organizations that were identified were not actually offering any dance lessons and limited information was available on these, so they were removed from our dataset leaving us with a net count of 135 observations. Based on the type of leadership at the institution, we generated the variable *dual* that takes the value of 1 for dual leadership and 0 otherwise. Similarly, the variable *bod* was generated to account for the number of the Board of Directors and members of a given institution.

Upon checking the information obtained about leadership in various institutions, we found that about 18% or 24 institutions did not clearly state what their leadership structure was and we could not find exact information on the leadership model even after visiting their individual social media pages. We decided to exclude these 24 institutions for the purposes of testing our hypotheses only for institutions which had a clear leadership defined as either one or two leaders. The descriptions and summary statistics for our variables are given in Table 1. We also found that out of the 135 institutions, the information about the existence of a Board of Directors and the number of members was not included for 56 % or 76 of the institutions. We simply coded the *bod* variable with a value of 0 for those institutions where the information was simply not available. While we recognize that this can bias the results somewhat, it was crucial to focus on the leadership type for our hypotheses testing and therefore we did not remove all the institutions with missing information on the number of board of directors.

Table 1. Descriptive Statistics for Known Leadership Mode Sample

Variable	Definition	Obs	Mean	Std. Dev.	Min	Max
<i>dual</i>	=1 if dual leadership, 0 otherwise	111	0.4	0.49	0	1
<i>bod</i>	Number of members in Board	111	6.65	11.78	0	72
<i>fundraising</i>	Revenues from fundraising activities	111	20,221	47,892	0	340,225
<i>grossreceipts</i>	Gross receipts from sales of tickets or goods	111	589,998	2.27M	0	23M
<i>giftgrantfees</i>	Revenues from gifts, grants, or fees	111	1.1M	5.09M	0	50M
<i>netinc</i>	Net Income reported on Form 990	111	38,535	222,237	-235,501	1.6M
<i>totrev</i>	Total Revenue reported on Form 990	111	637,330	2.95M	0	29.2M
<i>relevantrev</i>	Sum of <i>fundraising</i> , <i>grossreceipts</i> and <i>giftgrantfees</i>	111	1.7M	5.9M	0	50.7M
<i>netexpense</i>	Total Expenditure reported on Form 990	111	601,528	2.8M	0	27.7M
<i>lngivenrev</i>	Natural log of <i>totrev</i>	110	11.8	1.37	8.1	17.19
<i>lnrev</i>	Natural log of <i>relevantrev</i>	107	12.87	2	0	17.74
<i>lnexp</i>	Natural log of <i>netexpense</i>	110	11.68	1.58	4.76	17.14

The data show an interesting trend pertaining to dance institutions in Texas. About 40% of the institutions have a dual leadership model. It is critical to note that at this time we cannot ascertain whether the two leaders are making all decisions together as one entity or if they are complementing each other using artistic vision and financial vision separately. In the future, as a follow-up to our current research, we aim to follow up with these institutions and conduct surveys and interviews to gauge what the role of each leader is in the context of decision-making for the company. While Table 1 demonstrates that the average number of board members is 6.65 for each company, once we focus only on the 59 companies for which we have board member information in the dataset, we found that the average number of board members is 12.5 with a standard deviation of 13.74 and a maximum value of 72. This indicates that about two-thirds of the companies with board members have between 0 and 25 members.

The financial variables of these companies are interesting, primarily because one can immediately see that there is a disparity between total revenues that are reported in the 990-forms (*totrev*) and the revenues that we calculated by adding amounts obtained from fundraising, gross

receipts, and gifts/grants and membership fees (*relevantrev*). The average of total revenues reported is almost one-third of the average of calculated revenues. Some portion of this disparity can be explained by the fact that the tax form might not require direct reporting of gifts or grants in the line item for revenues. However, from a perspective of our hypotheses, generating revenues through gifts and grants might be crucial function of leadership and therefore cannot be sidelined. The *netinc* variable is based on the reported net income in the 990 forms and shows an average of \$38,535 with a standard deviation of more than \$200,000. Since this variable is close to the difference between reported revenues and reported expenditures obtained from 990 forms, this *netinc* variable fails to capture the non-taxable revenues accruing to the institutions accurately. Thus, even though we will use this variable for our initial models, we will not use it for our log-lin models described in Equation (2) in the previous section.

Results and Discussion

Our initial estimates for Equation (1) are obtained in Models 1 to 8 as shown in Table 2 with *netinc*, *totrev*, *relevantrev* and *netexpense* used as dependent variables and *dual* and *bod* used as independent variables. We note that the R^2 values for these models are not very high since we are not running full models to estimate the financial variables, but rather are interested in focusing on the impact of the type of leadership on the financial variables. One of the key things to note in these models is that the number of board members *bod* appears to play a significant and positive role on net income, total revenues, relevant revenues, and the net expenses. For each additional board member, the *netinc* variable increases by almost \$5,000, *totrev* increases by \$54,722, *relevantrev* increases by \$195,210 and *netexpense* increases by \$49,692. This speaks loudly to the fact that the involvement of board members in institutions of this sort can have a tremendous impact on their financial performance. The results of this study are supported by Pins (2011) findings on the significant relationship between board member participation and the organizational financial sustainability.

Table 2. Initial Base Regression Results for Financial Variables

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	<i>netinc</i>		<i>totrev</i>		<i>relevantrev</i>		<i>netexpense</i>	
<i>dual</i>	38,435 (0.89)	27,047 (0.65)	849,005 (1.49)	728,555 (1.30)	1,410,370 (1.23)	980,683 (0.92)	806,041 (1.50)	696,660 (1.31)
<i>bod</i>		5,174** (2.96)		54,722* (2.34)		195,210*** (4.41)		49,692* (2.25)
<i>_cons</i>	23,300 (0.86)	-6,585 (-0.23)	300,787 (0.84)	-15,291 (-0.04)	1,186,842 (1.65)	59,286 (0.08)	282,017 (0.83)	-5,013 (-0.01)
N	111	111	111	111	111	111	111	111
R-sq	0.007	0.082	0.020	0.067	0.014	0.164	0.020	0.064
t statistics in parentheses								
* p<0.05 ** p<0.01 *** p<0.001								

Another crucial observation in these models is that our variable of interest, *dual*, fails to be statistically significant in any model, even though it has a positive impact on all the financial variables. Thus, we now estimate our log-lin models as discussed in Equation (2) in the previous section. Table 3 shows the results of the log-lin models for the dependent variables, *lngivenrev*, *lnrev*, and *lnexp* and independent variables *dual* and *bod*.

When considering log-lin models, it is crucial to understand how the coefficients are interpreted. If the slope of *dual* is 0.593 in the estimates of *lngivenrev* equation in Model 1, we can say that for an increase in the value of *dual* from 0 to 1, the *totrev* increases by $(e^{0.593} - 1) \times$

100% or 80.94%. This value is significant at the 5% level confirming that dual leadership plays a key role in increasing revenues of a company. Similarly, we find from Models 3 and 5 that the *relevantrev* variable and *netexpense* variable increase by 167.78% and 108.76% respectively when the value of *dual* goes from 0 to 1, suggesting that companies with dual leadership outperform their counterparts significantly and substantially.

Table 3. Log-lin Models for Financial Variables

	(1)	(2)	(3)	(4)	(5)	(6)
	<i>lngivenrev</i>		<i>lnrev</i>		<i>lnexp</i>	
<i>dual</i>	0.593* (2.27)	0.481* (2.07)	0.985* (2.55)	0.696 (1.93)	0.736* (2.45)	0.617* (2.26)
<i>bod</i>		0.0531*** (5.48)		0.0802*** (4.60)		0.0559*** (4.91)
<i>_cons</i>	11.57*** (70.06)	11.26*** (71.60)	12.48*** (51.51)	12.10*** (51.09)	11.39*** (60.03)	11.06*** (59.91)
N	110	110	107	107	110	110
R-sq	0.046	0.255	0.058	0.218	0.053	0.227
t statistics in parentheses						
* p<0.05 ** p<0.01 ***p<0.001						

When we consider Models 2, 4, and 6 to include the *bod* variable, we find that for each additional board member, the *totrev* increases by 5.45%, *relevantrev* increases by 8.35%, and *netexpense* increases by 5.75%. In all the models, we find that the *dual* and *bod* variables are statistically significant at least a 0.06 level, if not higher indicating that these two factors jointly contribute substantially to how an institution of this sort performs.

Conclusion

Our primary hypothesis was that the leadership type and structure impact the financial performance for dance organizations in Texas. Dual leadership at first did not prove to be as significant in the primary models even though there was a positive impact on the relevant variables. The introduction of the log-lin models for the evaluation of the financial variables proved that financial performance has a strong dependency on a dual leadership structure. Furthermore, both regression models resulted in a strong dependency of board member participation in relationship to the financial health of the sample dance organizations. These findings support the literature review on leadership structure and the inclusion of relevant financial variables such as unearned and earned income. The results of this study support dual leadership, a structure needed in an environment that forces dance organizations to attract grants, public and private donations to survive. A Board of Directors and their members can further assist in this initiative through direct financial contributions and by expanding the network of external funding sources (Pins 2011).

A continuation of this study is recommended to evaluate leader capabilities and educational backgrounds (Kuenzi and Stewart 2017). Further analysis about the dual structure can provide more insight on individual capabilities and the impact on a dance organizations financial sustainability. It would be interesting to evaluate whether both leaders in the sample of dance organizations selected for this study are artists or have a mixed educational background. It is also important to understand if organizations solely led by “artistic” leaders have lower financial performance than organizations with a mixed leadership. A survey in the form of a questionnaire with a follow up phone interview is recommended for this portion of the study. Further quantitative analysis can also explain if a strong correlation exists between leadership

structure and unearned income of dance organizations. The results of these additional analyses can provide nonprofit leaders with relevant information on the relationship between organizational structure and financial variables. However, even in the absence of these qualitative results, our results demonstrate that dance organizations can significantly benefit by moving from a single leadership to a dual leadership model and ensuring that they have a substantial Board of Directors, who are invested in improving the financial health and artistic impact of the company.

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Criminological and Philosophical Explanations for the Formation of Homicidal Ideation and the Role of Serotonin (5-HT) in Controlling Aggressive Behavior

Gabriel Tănăsescu

University of Craiova, Craiova, Romania, gabriel.tanasescu@edu.ucv.ro

ABSTRACT: From a criminological point of view, the passage to the act represents the concrete materialization of the volitional act of crime, but also the manifestation of the homicidal ideation (hidden in the darkness of the unconscious) as an active shadow of the darkness of criminal preparation (before thinking), which opens its death drive, in the intangible world of the symbolic and penetrates the reality of criminal causality. From a philosophical point of view, it must be explained how the unconditionality of the crime becomes an essential condition for the commission of the criminal act. This article also analyzes the effect of serotonin (5-HT) in the neural control of the manifestation of aggressive behavior. Impulsive aggression, depression, personality disorders, drug abuse, are associated with a dysfunction in the serotonin system (5-HT). The neurobiology of violence examines the serotonergic system and proposes in some cases therapeutic action. The role of the amygdala in the process of emotional, affective and motivational representations is essential. Imaging studies that reported significant correlations between amygdala activity and emotional memory are also analyzed.

KEYWORDS: homicidal ideation, serotonin (5-HT), amygdala, aggressive behavior

Introduction

In a recent study published in the *Journal of Forensic Sciences*, homicide is considered the most serious and costly crime (Carbone, Holzer, Vaughn, DeLisi 2020). From a criminological point of view, the potential psycho-behavioral precursor of criminal behavior is homicidal ideation (Carbone, Holzer, Vaughn, DeLisi 2020). According to the latest official data, there are an estimated 17,284 homicides a year in the United States, and the average cost of homicide is \$ 17.25 million (Carbone, Holzer, Vaughn, DeLisi 2020). There are also situations when the costs of victims, the costs of criminal justice, the lost productivity of criminals who do not work and do not pay taxes, the public costs suffered by the community through the damage created can reach certain violent criminals with a long criminal career and \$ 150 million, individually (DeLisi et al. 2010). Tax homicide taxes in the United States annually amount to \$298.15 billion (Carbone, Holzer, Vaughn, DeLisi 2020).

A recent study found that 1 in 20 young British people met the criteria for two or more mental disorders; behavioral problems in childhood correlate phenotypically, suggesting a general dimension of psychopathology, which has been called the p factor (Allegrini et al. 2020). The p factor is hereditary (50% - 60%) and manifests itself consistently at different ages. Studies indicate a genetic overlap between the general risk of psychiatric disorders in adulthood and the p factor in childhood, even from the age of 7 (Allegrini et al. 2020). Crime increases in early adolescence, around the age of 14, reaching a peak between 20 and 25 years (when the maximum is reached) and then begins to decrease (Rocque, Posick, Hoyle, 2015, in a study on the age-crime curve).

Homicidal ideation

Homicidal ideation is defined by the presence of thoughts about committing a lethal violent act against specific (identifiable) or nonspecific (having a general character) targets, regardless of whether the homicide was committed (completed with the death of the victim), attempted (attempt) or just prepared (preparatory acts) (Carbone, Holzer, Vaughn, DeLisi 2020). Etienne De Greeff in Introduction to Criminology presented the criminogenic process (the stages by which the criminal

act is carried out) and stated that man is never fully described by the finality of the very serious act he committed, but only a part of his personality can be translated the accomplishment of the absolute material act (De Greeff 1946). The inner attitude that directs these absolute acts is not in full agreement with their outer manifestation. Attitude describes the psyche from which it emanates (De Greeff 1946). In the first stage of the criminogenic process, the homicidal ideation is indefinite, improbable. Raoul Allier calls this stage “ineffective assent” (in *La Psychologie de la conversion chez peuples noncivilises*, 1925, Payot, Paris). This stage does not imply external action or behavior of the subject, but only tacit acceptance of the presence of the homicidal idea, which is born in the perpetrator's being and begins to form the germs that precede the passage to the act. Stephen Costello, analyzing Lacan's psychoanalysis as a dialectical operation, presents the notion of unconscious speech, that inner voice that speaks to us and that undermines the conscious thinking of the subject (Costello 2017). The homicidal ideation appears from the limit of the criminal preconscious and pushes the perpetrator towards the encounter of the Real, which is revealed only as a traumatic presence. In order to resist the Real, the neurotic subject sometimes constructs his fantasies, because the reality belongs to death, desire and sexual pleasures. The real repeats the shock of birth, the trauma of the perpetrator who becomes aware of his unjustified presence in the world (Costello 2017). Lacan believes that the perpetrator must be ethically responsible for both his intentional conscious acts and unconscious and seemingly accidental failed acts (Costello 2017). By consciously assuming the unconscious death drive, suicide is considered by Lacan the only completely successful act, because suicide expresses both the conscious intention of the Self and the unconscious intention of the Self (Costello 2017). Acting-out for Lacan is a symptom, it is the beginning of the transfer and it results from the failure to remember the past. Emphasis is addressed to the Other, the subject offers himself to the analyst and expresses his message through action, his behavior betrays unconscious desires (Costello 2017). To get rid of guilt (self-punitive paranoia, a term introduced by Lacan) and unbearable anxiety, the perpetrator resorts to the act, ie gives up the imaginary world, symbolism and fantasies, and accepts breaking ties with the social world, the criminal act expresses the will to power of the subject who identifies with the object of the criminal act. The passage to the act is a transgression of the symbolic order in Real (Costello 2017). Homicidal ideation occurs very often in patients with antisocial personality disorder, schizophrenia, psychotic disorders with a delusional content based on persecution and has been associated with criminal career. The conjugal aggressors, the rapists, the serial killers confess that the homicidal ideation is present and precedes the transition to the act of committing the criminal act. Patients with schizophrenia were 12 times more likely to experience homicidal ideation, and those with antisocial personality disorder 25 times more likely than people with psychotic disorder. (Coal, Holzer, Vaughn, DeLisi 2020). Young people who have problems with self-control, who suffer from emotional disorders and lack of emotional regulation, with lower socioeconomic status and without financial security experience homicidal thoughts, and are prone to antisocial behavior (Carbone, Holzer, Vaughn, DeLisi 2020). When suicidal thoughts or homicidal ideation appear, psychosocial and medical intervention is recommended. The risk increases greatly when there have been patients in the family with aggressive or suicidal behavior. Experiences of criminal thinking exist only insofar as the criminal self is aware of them and agrees to expose them, to take them out of its private world.

Philosophical aspects regarding the psychic constituents of thought

From a philosophical point of view, the internal process by which the homicidal ideation appears in consciousness and deforms the personality structure of the perpetrator must be explained, becoming an essential cause of the criminal act. In “Letters on the Tractatus” Ludwig Wittgenstein explains to Russell the difference between fact and state of affairs. Thought is a fact, and thought (Gedanke) must have constituents that correspond to the words in the language (Wittgenstein 2012).

“Is thought (Gedanke) made up of words? Not! But from psychic constituents that have the same kind of relationship with the reality that words have. I do not know what these constituents are” (Wittgenstein 2012, *Letters on the Tractatus*, p. 100).

Wittgenstein argues that the relationship between the constituents of thought and those of the represented fact is a matter of psychology. Mircea Flonta in the introduction to *Tractatus Logico-Philosophicus* considers that for Wittgenstein the will, as a bearer of ethics will not change the facts of the world, these boundaries change according to the way we understand to manifest in the world, according to the way we live our lives; good and evil exist only in relation to the subject, with the will as a noumenal existence. Studies on free will, personality and cognitive improvement must be analyzed by neuroethics (Canli 2015). In the *Critique of Practical Reason*, Kant (1999, 223) considers that everything of nature acts according to laws, and the will is the causality of a living being. “Only a rational being has the faculty to act according to the representations of the laws, according to the principles, that is, only she has a will.” In the *Critique of Pure Reason*, Kant (1994, 351) argues that the unconditional is never encountered in experience, but only in the Idea, it is transcendental. “If the conditional is given, then the whole sum of conditions is also given, therefore the absolute unconditional, which alone makes the conditioned possible.” The passage to the act is based on the totality of the conditions that allowed the appearance of the homicidal ideation in the being of the perpetrator. Presenting the structure of the psychic apparatus in his book on psychoanalysis, Sigmund Freud (2014, 173) considers that psychic life is conditioned by its physical organ and place of action, the brain (nervous system), but also by the acts of our consciousness, “which exist directly and cannot be brought closer by no description. Everything between them is unknown to us, a direct relationship between the two end points of our knowledge is not given to us.” Individual conduct involves directing actions in a certain way by making a decision; the attempt to establish the unique and appropriate purpose of the action is based on the intention to achieve this goal, followed by the elaboration of the mental plan for carrying out the action (Tănăsescu 2018). In the deliberation, certain processes are carried out to investigate the conditions for carrying out the criminal activity, evaluating its effects in objective reality. Following the analysis of the meanings, motives and purpose pursued, the mental plan for the concrete realization of the criminal activity is finalized by making the decision to commit the crime (Tănăsescu 2012).

Intergenerational transmission of violence

An unhappy childhood in which the victim is physically and mentally abused can transform an individual's personality, sometimes with the risk of antisocial behavior during adolescence, or later in adulthood. Elizabeth Tomsich (2016) in her study on the cycle of violence argues that we can find in certain situations causal links between physical abuse in childhood and violence in adolescence or adulthood. Child abuse in childhood has a high risk of committing violence later in life; for these children there is a 38% higher risk of being arrested for a violent crime, compared to control cases, which had no history of childhood abuse. The theory of the cycle of violence is not deterministic; it proposes that childhood abuse increases the risk of violence later in life of the subjects analyzed, compared to those who are not victimized; this theory is known as the hypothesis of intergenerational transmission of violence (Tomsich 2016). Since 1973, the symptoms of Stockholm Syndrome have been recognized in other abusive situations, such as victims of domestic violence or child abuse, with aspects of intergenerational transmission of violent behavior and serious implications for the development of criminal behavior, potential therapy and social issues regarding the reintegration of victims (Hegheş and Şchiopu 2019).

5-HTTLPR genotype and SLC6A4 methylation

The brain is a network of billions of neurons bathed in chemicals called neurotransmitters, which allow neurons to transmit information to each other (Barrett 2017). The receptive field of a neuron

depends on the information it receives, ie it depends on its neural context at that time (Barrett 2017). The brain can be considered an anatomical structure of neurons, which can create an amazing number of spatiotemporal patterns (Barrett 2017). The basic task of the brain (allostasis) is to provide the resources of the physiological systems in the person's body, necessary for the process of growth, survival and reproduction; the brain classifies its sensations to make sense of them and constructs emotional events through connections that originate in cortical regions (Barrett 2017).

DNA methylation plays an important role in maintaining genetic stability and is essential for mammalian development; DNA methylation is a promising biomarker for many applications (Tost 2010). DNA methylation patterns are likely to change in response to environmental stimuli, such as toxins, diet, stress, the epigenome being the most vulnerable during early development in utero (Tost 2010). DNA methylation models can predict and monitor the response to cancer treatment; Aberrant changes in DNA methylation have been detected in several diseases, especially in cancer, where hypomethylation at the genome coincides with gene-specific hypermethylation (Tost 2010).

Elif Duman and Turhan Canli publish in 2015 a study on the influence of life stress, 5-HTTLPR genotype and SLC6A4 methylation on gene expression and stress response in healthy Caucasian men. The authors try to find the relationship between stressful life experiences in childhood, adolescence, adulthood, 5-HTTLPR genotype and SLC6A4 methylation. This study suggests that individual differences in the SLC6A4 gene in DNA methylation could underlie the mechanism by which stressful life events could regulate gene expression (Duman and Canli 2015). Both early (childhood, adolescence) and recent stress modify DNA methylation depending on the 5-HTTLPR genotype; these changes are also reflected in gene expression and cortisol response, affecting individuals' stress response differently (Duman and Canli 2015). SLC6A4 is a serotonin transporter gene, important for researchers in deciphering its interaction with stressful life events; serotonin (5-hydroxytryptamine, 5-HT) is a very important neurotransmitter that regulates the stress response of the hypothalamic-pituitary-adrenal axis (HPA); the serotonin transporter is responsible for the reuptake of excess serotonin into the synaptic cleft (Duman and Canli 2015). The main function of the serotonin transporter is to remove serotonin from the synapse, returning it to the presynaptic neuron, where the transmitter can be downgraded or relaunched later (Karg, Burmeister, Shedden 2011). Serotonergic neurotransmission influences human behavior regarding sexual activity, motor and sensory activity, the process of knowledge, affective-emotional behavior, food consumption and social communication; individuals who carry at least one copy of the short version of 5-HTTLPR have a higher activity of the anterior cingulate cortex (which has an important role related to cognitive function, empathy, decision-making, emotion); the short version of 5-HTTLPR is associated with neuroticism, which is a risk factor for depression; gene-environment interactions make individuals vulnerable to depression (Canli and Lesch 2007). Maternal separation in the first months of life results in poor social adjustment, interaction problems - in monkeys *Macaca mulatta*; these deficiencies are related to the function of the serotonergic system (Canli and Lesch 2007). Niklas Nordquist and Lars Oreland hypothesize that the dual role of serotonin as a neurotransmitter and neurotrophic factor has a significant impact on the behavior and risk of neuropsychiatric disorders through the altered development of the limbic neurocircuit involved in emotional processing and development of serotonergic neurons during development. The study data can be explained if the association between serotonin and conditions of behavioral and psychiatric disorders were mainly a consequence of events that occur during fetal and neonatal brain development (Nordquist, Oreland, 2010). The neurotransmitters serotonin and dopamine play an important role in the basic neurobiology of different behaviors; dopamine influences the behavior compared to the usual response, and serotonin compensates for this phenomenon and directs balance towards a more flexible, subject-oriented response (Sanchez et al. 2015). The function of serotonin in the central nervous system modulates the balance between the usual goal-oriented behavior control systems and stimulus response (Sanchez et al. 2015). Serotonin deficiency has been associated with a higher propensity for violent outbreaks and has been supported by studies in patients with antisocial personality disorder, impulsive aggression, and type II alcoholism (Quadros, Takahashi, Miczek 2010). The effects of gene-environment interaction have been investigated among low-income

children, vulnerable to antisocial development, abused and without receiving special treatment (Cicchetti, Rogosch, Thibodeau 2012). The 5-HTTLPR interaction and the time of development of abuse indicated more severe antisocial outcomes for children with early onset and recurrent abuse based on genotype (Cicchetti, Rogosch, Thibodeau 2012). One method of directly lowering the central level of 5-HT and observing the causal effect of serotonin is acute depletion of tryptophan (an amino acid that is used in protein biosynthesis); a small amount of tryptophan, the precursor of the amino acids serotonin, leads to decreased brain levels of serotonin (Kramer, Riba, Richter, Munte 2011). Carriers of the short-variant 5-HTTLPR compared to non-carriers showed significantly greater amygdala activation during an emotion-related pregnancy in response to emotional stimuli. Tonsil activation reflects subjective emotional experience and improves memory in relation to the emotional intensity of the experience (Canli et al. 2000). The amygdala is sensitive to the emotional intensity of a stimulus; amygdala activation reflects a certain flexibility, which rapidly changes the emotional response in a given situation (Canli et al. 2000). Direct (offensive) aggression is related to serotonergic neuronal activity, while impulse-aggression violence is related to 5-HT activity (Berend 2004). There is some evidence that receptor antagonists (eg, risperidone) inhibit aggressive behavior in patients with various mental disorders, including depression or schizophrenia (Berend 2004). Ulrike Kramer and colleagues are conducting a study examining the role of serotonin in reactive aggression through acute tryptophan depletion. Acute tryptophan depletion (called ATD in the study) attempts to stimulate aggression through provocation. Behavioral data showed a decreasing effect of ATD aggression in participants with low aggressive behavior, while no ATD effect was detected in participants with high aggressive behavior (Kramer, Riba, Richter, Munte 2011).

Conclusions

Carriers of the short version 5-HTTLPR are twice as likely to suffer from mental disorders and depression after stressful events - death of loved ones, failure in romantic relationships, serious illness, job loss, childhood abuse; they have a predisposition to ruminations associated with increased vulnerability to stress; the cellular substrate through which the link between genes and the environment is created could shape social behavior; individuals respond differently to stress depending on the 5-HTTLPR genotype; this reflects mechanisms that affect structural connectivity and functionality within the neural circuit; gene-environment interactions make individuals vulnerable to depression (Canli and Lesch 2007).

The meaning of a sensory event does not trigger the action, but results from it; emotions are constructions of the world, not reactions to it (Barrett 2017). The Self that appears in the unconscious phantom as a subordinate or ideal personality (Jung 2011) is dependent on its own interoception. The inner life of the individual, with its existential data, influences the social behavior. The social event of the world triggers the sensory event of the being. The reaction to the stress of life, to the social or antisocial acts of one's peers is always a personal reaction. We can only guess how the personality, influenced by suicidal thoughts and homicidal ideation, will respond to aggression and stimuli in society.

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The Great Psychology behind the Marketing Scene

Ionuț-Alexandru Horhoge

“University of Birmingham”, Birmingham, United Kingdom, horhogealexandru@yahoo.com

ABSTRACT: Zoon Politikon may be considered the main byname of human beings. It is ought to the similarities between each individual and animal, regarding involuntary instincts. The fundamental reason for our top placement as humans, in nature, is given by ability to think and promptly react according to it. Considering that, should we take advantage of others’ involuntary instincts when it comes about marketing? As the concept of marketing is a truly complex matter, we could minimize the stress of understanding it by arranging it like a family tree. All we have to do is to exchange our relatives from it with fundamental principles of marketing and psychology and place them from bottom to top, former representing the most important aspects and latter, the least. But what if we want to “cut this tree” as a metaphor for selling a product to a customer while taking advantage of his involuntary instincts? Let’s find out in the following.

KEYWORDS: psychology, marketing, selling products, exploit

Introduction

The marketing scene is a “cold war” from its’ beginnings till present. All the important decisions are made subconsciously both by the buyer and seller and the crucial part when selling a product is the negotiation phase.

During it, the seller must connect with the buyers’ mind and find the best approach in order to convince him to take the “right decision”. In this case scenario, you might be wondering which decision out of one million a potential buyer may have, is the right one. The right one for you is the right one for him either, simple as that.

The Great Psychology Behind The Marketing Scene

First of all, if we want to have great results in our field, no matter which one is it, we must stabilize a good relationship with the ones around us and understand their needs.

The more closely we are connected to the people we love, the happier we feel and the more personal satisfaction we have in our lives. Most people rate moments of connection and shared enjoyment with their loved ones as their most important life experiences (Sharry 2018). These being said, under a quick analysis we can find out that the first step into seeing beyond the human interface is to find peace into the others, especially the loved ones. In this manner we may get to a better understanding of how emotions really work. Scientists have found that certain kinds of thoughts often lead to certain emotions. For example, when someone thinks, “I am in danger”, that person would probably feel fear (Smith, Alkozei and Killgore 2017).

So, how can we take advantage of this in a negotiation? By taking lead of our thoughts and consistently thinking that we are in control. Surprisingly, the point is not to make the one in front of you to think the same thing but the other way around. As long as the buyer feels safe and being the master of negotiation, the ace of spades is in your hands. Do you remember what I have mentioned about the connection between people and the loved ones? This is your first target when physically meeting the buyer, as a seller. It is a must to be in control of the environment where the conversation takes place, the suit you put on, the body language, the words you use, all of these in order to make the other individual feel safe, familiar and the most important being respected which also provides a feeling of attachment. By accomplishing this part, you enter in the diplomacy zone of the so called “cold war” of marketing, from then on, it is on you to use the necessary skills you have learned to make the conversation flow.

Also, an important thing in this preliminary stage is to apply the U.E motto: “United in diversity”. This is how you as the head of negotiation should act. Do not jump straight to the main point, mostly talking about the price. First draw a fine circle around the conversation and try to understand the other persons’ passions, needs and way of seeing life. Being united in diversity in a conversation means to present your own ideas but be prepared to engage with others’ opinions, to be tolerant and to stay “united” with the discussion not only for the sake of it but for a better comprehension of what the other individuals experience on a daily basis. In this manner you might find some “black swans” (Chris Voss, *Never Split the Difference: Negotiating as If Your Life Depended on It*, 2016). As Voss is calling them, a black swan is like a black thought of which you, either the other person you are negotiating with is or is not aware of it, something that does not permit the conversation to flow and to eventually come to a favourable conclusion. Such obstructions might be given by: 1. The inability of the other person to take a decision because of not being in control i.e. they have a boss who is not happy about the product that you are selling and he does not want it. 2. A unfortunate family event that occurred and ought to it, the buyer is not allowed to think clearly. 3. Something that even he is not aware of.

If you are confronting a person who is struggling in the third example, here are certain ways of finding out precious information about the person you are talking with. Voss is classifying them as:

Mirroring

Which is one of the simplest yet effective techniques in any negotiator’s repertoire. Through simple repetition, this technique demonstrates how you can gather vital information in a negotiation and put your counterpart at ease while making him confront his own thoughts. More than this, whenever an unexpected question might pop out, by using this approach you can make the other individual respond to his own question.

Labelling

Learn how you can use labels, verbal observations of feelings to neutralize negative emotions in a negotiation or reinforce positive ones to create a better deal.

Bending Reality

A negotiation can succeed or fail depending on how you frame your case. Do not hesitate to “bend the reality” in order to achieve the desired answer. But be careful and remember what product you are selling and under no circumstances lie about it. You can use words in your favor by analyzing the products’ strong and weak points (Voss 2020).

Those been said, we can jump straight to the next point which is knowing your product. No one is crazy enough to sit at the negotiation table without knowing the best of what he is selling and if he is, probably is far away from being right. After the quick analysis of the buyer you have just made, it really is crucial to “shot the arrow” and start talking about what you are selling.

Keep in mind! Putting first the advantages of it is not always the best idea! “Most people think the most important word in a negotiation is «yes»”. In fact, the opposite is true (Voss 2020)”. While some people are obsessed with receiving a yes as their first answer, Voss recommends to start from bottom to top and I cannot agree more. I.e.: when you do not receive the awaited response from a person, especially a strong and irrefutable “no”, are not you more interested in the conversation? Do not you get more engaged in it to find out why you have just got refused? If so, now you might understand this tactic. In the most essential cases, being refused at first is the best answer you can get because of the interest the other individual will manifest in order to keep his idea strong in front of you.

Now, it is your time to present the strong points of your product. A new battle between you two is going to begin. This time, you have a great advantage, the others’ interest. Also, now it is the right moment to take “proper care” of the individual’s involuntary instincts in order to sell your product at the desired price by using:

1. Fear

Emotional response to dangerous circumstances is called fear and it appears when there are certain chances to get injured or killed. This harm is not just limited to physical damage but to a mental one as well and we are going to focus on the second type of fear. What is more frightening than losing a good deal? Even if some buyers know that they have achieved the impossible in terms of price when throwing a low anchor in a negotiation, some of them might continue to get the best out of it. Luckily, during this phase constant fear appears and it is up to you to negotiate a better deal, as a seller. Those being said, the lowest price is not always the best. If it is more convenient to you, instead of selling a product for fifty more dollars, you can ask for an extra service instead which will usually cost way more. At the end of the day, when you draw the line, it is more likely to see what a great deal you have just made.

2. Anxiety

Anxiety is similar to fear and can overwhelm a person to the point where he becomes easily confused and has difficulty thinking. Once this happens, it becomes more and more difficult for him to make good judgments and sound decisions. Usually, unless the ones at the negotiation desk are afraid of each other, anxiety will not appear. In an unlikely case it might, it will be visible and there is one way of using this in your preference: rise the price, make the other one think he will for sure lose a great opportunity.

3. Anger and Frustration

Frustration arises when a person is continually thwarted in his attempts to reach a goal, in our case a fair price. To achieve this goal, the person must complete some tasks with minimal resources in terms of knowledge when it comes to understand where the deal might go. More than that, every mistake is magnified in terms of its importance. Thus, sooner or later, the buyer will have to cope with frustration when a few of their plans run into trouble. One outgrowth of this frustration is anger. There are many events during the negotiation that can frustrate or anger a person. Frustration and anger encourage impulsive reactions and poorly thought-out decisions. Because of this gap, the buyer will want more and more to get your product without realising a potential money loss.

4. Loneliness

Humans are social animals. This means we, as human beings, enjoy the company of others. In marketing, loneliness can be associated with a one to one negotiation session. Some people, new in the domain, might feel uncomfortable while doing this and it might be a pity of you (as a seller) to take too much advantage of such situation. The best is to remain professional but be aware of every opportunity.

5. Guilt

The circumstances leading to sensation of guilt may vary. This usually appears after the negotiation in both seller/buyer camps. Self-questions such as “Should I have lowered/rose the price?”, “Maybe I should have been more aggressive/passive in that negotiation”, “It might have been better to set a lower/higher anchor”. Excluding the fact that after a classic shake of hands, the deal is going to remain unchanged, in certain situations (usually unofficial ones) things could be changed for the better. As a matter of fact, if one individual is feeling guilty of what he had done in a negotiation, but the other does not, taking advantage of his emotions may lead to an extra service which as I mentioned earlier, it can be more effective for you and less expensive in the eyes of the other (Seeker 2020).

Conclusion

In the end, marketing really is a war, a cold one. Not only because as I mentioned in the introduction that the important decisions are made subconsciously both by the buyer and seller or because there is a confrontation of interests without any casualties, it is because, in my opinion, when it comes to marketing mind is everything. When it comes to management, mind is everything. When it comes to human to human interactions, mind is everything... even when it comes to a simpler action such as walking, mind is everything. It is on us to gather the power to sustain this favorable war in order to maintain the global economy thru the concept of marketing and to understand and accept the fact that marketing is more than selling a product, it is a way of thinking and sometimes a vicious path of necessary psychological games that must be completed in order to achieve the desired result.

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The Impact of Privatized Media on National Development and Programme Quality: A Nigerian Case Study

Hadiza Wada

Kaduna State University, Kaduna, Nigeria, Hadiza.wada@kasu.edu.ng

ABSTRACT: This work studied the trends set so far by privately owned radio stations after almost thirty years of operation in Nigeria. The Nigerian professional media history goes back a long way, with the recording of the first modern style newspaper in 1859. Radio came in the early 1930s, and television in 1959. But it was not until August 24, 1992 with the proclamation of a military decree No. 38, more than a century later, that media professionals in Nigeria were able to officially register privately owned radio and television stations through the National Broadcasting Commission. It's been almost thirty years of privatized media operations, but not much empirical studies have been conducted to measure the impact of privatized media on the industry, trends established so far, as well as impact on the nation's economic, political and social development. A survey of employees of two private radio stations was conducted. Program quality in comparison to government owned media was rated very high by the respondents, while ownership influence in programming decisions was a major hindrance, so also financing problems. Data was analysed within the framework of developmental media theory. It was recommended that the government generate and commit to solid short, medium, and long term development plans for the media to complement with advocacy and programming content. And for the stations to find alternative ways of fundraising to allow them function more in line with their professional calling and expectations, while serving public interests.

KEYWORDS: Nigerian Media, Media and development, development communication

Introduction

The Nigerian media history started in the mid-1800s with newspaper publication in southern coastal area of the country where some forms of foreign (European) influence has been the standard since roughly slave trade era in the mid-1600s. Radio and television broadcast history in Nigeria, however, went in tandem with the global establishment of broadcasting. The first radio broadcast in Nigeria was initiated by the British colonial administration in 1932 (Nwantok & Aikulola 2020), about the same time BBC went global with its international radio broadcast across the world. Television however was first established much later in 1959, WNTV, the first television station in Africa, as an educational broadcasting entity (Umeh 1989), a year before Nigeria gained its independence from British rule. That was a record, because even globally television was just finding its place. "Germany the pioneer, for example, began broadcasting its non-experimental national television service in 1935, while England's British Broadcasting Corporation (BBC) began broadcasting the following year. The first U.S. commercial television licenses were issued in 1941" but it was not until mid-1950s that television broadcasting gained significant viewership in the United States of America (De Leon 2015).

For most of Nigeria's history until 1999 when an enduring presidential system of government was established, the military were at the helms of the country's leadership. The nation's print media, for the most part, were accredited with the advocacy for independence from British colonial administration, 1914-1960, as well as the cessation of military dictatorship and establishment of an enduring democratic form of government (Uko 2002). For broadcasting a break from the past came in 1992, when the military administration of General Ibrahim Babangida endorsed an edict (Act) that allowed, by law, the registration and establishment of private electronic media, i.e. both radio and television stations to run parallel with the existing stations established by the state and federal government. An agency named National Broadcasting Commission, NBC, was established the same year, 1992, to set regulations for establishment, as well as to monitor the private stations for

compliance (NBC, About Us). Thus began the Nigerian media dual journey of government as well as privately owned electronic media, in addition to the print media which has previously enjoyed private ownership from day one.

Statement of the Problem

Nigeria has since 1992, seen a proliferation of electronic media stations, from privately owned television stations such as AIT, Channels, Silverbird, DITV, TVC, etc., to a significantly higher number of privately owned radio stations, mostly FM stations established across the country. Most urban centres in Nigeria today have several FM stations competing for the attention of the same audience. Nigeria today operates about 510 radio stations nationwide, both public but mostly private. Lagos alone has 39 radio stations, while Abuja and Kaduna have 26 radio stations each. Raypower Radio, for example, is a private radio network that operate FM stations in almost all 36 states of the Nigerian federation. After some twenty-eight years since the law that allows private radio and television to be established, this study aims to find out the nature of that journey. The specific questions the study intends to answer are two; (i) whether the privatized media mix has resulted in improved media contribution to the quality of information and general content; as well as (ii) whether the privatized media in Nigeria have contributed positively towards national development.

A random survey using questionnaire as instrument for data collection was regarded as best for the study. Two out of the top four private radio stations operating in the city of Kaduna in terms of popularity, Freedom FM Radio, and Liberty FM Radio, were chosen. Copies of the same worded questionnaires were distributed to employees of both stations to get their opinions and insight into their operations, and 83 of them were returned and used for analysis.

Theoretical Framework

Development theory, from media studies branch called ‘development communication’ provides a framework for analysis and proper understanding of this study. Development theory has given us many thought provoking branches and studies including Rustow’s 5 stages of economic development every society goes through (Rustow 1990); studies in domestic factors that influence development such as income inequality (Deininger & Squire 1998) to modernization and development studies. A study of six developing countries including Nigeria, for example, was conducted (Inkeles & Smith 1998) to see common trends, as well as study the psycho-cultural factors influencing development. So long as mass media remain the means through which a great mass of the people in any nation is informed about social, political and economic activities as they occur, including discourse around them from professionals and all stakeholders, media and community developments will remain intertwined. The case for development communication was made by two scholars in 1974 (Inkeles & Smith 1974), originally meant to be the process by which Third World societies could become more like the western fully developed societies. The effects are measured in terms of political, and democratic systems imbued with continuous economic growth and high educational levels. Current trends however show major changes to the modernization concept of development theory, where scholars argue that focus on western industrialized countries and top-down information flow is being replaced with a more complex perspective in which communication is envisioned as a horizontal process aimed, first at building trust, then at assessing risks, exploring opportunities, and facilitating the sharing of knowledge, experiences, and perceptions among all stakeholders (Mefalopulous 2009). Among its features are the elimination of propaganda and the cultivation of special tools for building self-responsibility and self-determination.

Literature Review

Until 1992, radio and television broadcasting in Nigeria, remained an exclusive monopoly of the federal and state governments. In fact, in 1977 the federal military government confiscated both radio

and television stations owned by state and regional governments, establishing federal government monopoly of both radio and television across the country. brought under two entities, named Nigerian Television Authority, NTA, and Federal Radio Corporation of Nigeria, FRCN. The media confiscation by the military administration of General Olusegun Obasanjo was vehemently dissented by a sitting governor of Kaduna State then, Group Captain Usman Jibrin, who ultimately resigned and walked out of a meeting in protest (Abdallah 2009).

The tight control on broadcast media and for privatization coming that late, may not be unconnected with the fact that for two thirds of the nation's leadership history, it was under military administration, i.e. 29 years versus 19 years of civilian administration. The Nigerian media, most especially newspapers had for about a century earlier demonstrated the efficacy of media to liberate people, fight political oppression and support social, economic and political causes (Ngara & Esebonu 2012). Some of the discourse therefore was whether private media can bring an alternative voice to government controlled media so freedom of thought, action may lead to development. UNESCO has already identified radio in Africa as key to national and community development (Africanews, 2017). Its use as an educational tool (Lama & Sarma 2017). Another study, (Mgbejume 1991) referring mainly to newspapers, criticized the press' counterproductive role, calling for a redefinition of the role of the press media in Nigeria away from the present westernized mode of antagonistic anti-government posture (Uko 2002). The anti-government posture which was established by the press to fight the colonial administration, as posed by other scholars, should have been nipped at independence and self-government to allow for nation building. Already, radio has demonstrated, most especially in Africa its potential to be use for mass dissemination of information, ideas and positive change advocacy for developmental programs. Its ability to reach the most remote areas is a plus (Myraid 2015)). It's cheap, portable, not dependent on electricity, and unlike newspapers has the ability to transcend the barriers of illiteracy. Department of international development, now FCDO, Foreign, Commonwealth & Development Office in the United Kingdom, states that radio still leads as the major communication tool in Africa, and "in nations where Internet and electricity are limited, radio is the strongest medium for connecting isolated communities" (Myraid 2015). Television later added more credibility with visual ability in addition to watching news and programmes live and on location.

After about thirty years, studies have documented some achievements as well as drawbacks to contribution of private media to the nations media environment, and to national development as a whole. A study (Onwumere 1983) on the contribution of government owned television to national development shows how Nigerian Television Authority, NTA, has successfully worked in tandem with federal economic projects, most especially in agricultural development, mass awareness, and educational programmes. NTA was also used to encourage mass cultural development and awareness against practices that are counterproductive. Campus radio in universities and community radio are also beginning to make a significant presence after privatization (Nwantok & Aikulola 2020).

In 1986, The Federal Minister of Information and Culture, Mr Tony Momoh hinted at privatization of broadcast media (Mohammed 1994), citing several foreseen advantages including the possible avoidance of undue government influence on the (broadcast) media; the possibility of healthy competition which may lead to improved services; and possible diversity in programming and production; the credibility rating improvement with private ownership and finally, that privatisation would lead to greater investments in the broadcast media industry. A study, 18 years after media privatization (Ariye 2010) show 'the private stations giving the public stations a run for their money in terms of acceptability through quality programming leading to increased patronage and attraction of adverts.

Another study (Osadike & Udoh 2014), two decades into private media establishment compared the performance of government versus private media and found that private broadcast media evoke more credibility and acceptance than the government owned broadcast media. It was also found that private broadcast media messages affect the public positively and tend to give

more in-depth coverage of events than public broadcasting outfits. It further confirmed that private broadcast media tend to encourage the expressing of divergent views on policies and other important matters. Other studies however (Okwuchukwu 2014) show how media owners and opinion leaders (elite) negatively impact the society, "... (the ruling elite) are the core "news makers" whose views and opinions populate most of the views, news, opinions and information disseminated in the media in Nigeria. The findings further showed that the current media ownership pattern and the level of media control in Nigeria actually hinder the media from independently setting society's agenda."

A Scholarly study (Kur 2015) discredits the military for restricting access, and the politicians during civilian administrations with unethical news commercialization that corrupts objective reporting and genuine political discourse. Kur recommends making television broadcasting wholly private; introduction of community television broadcasting, and encouraging the civil societies and professional associations to advocate for best practices in the industry. On social development, a study (Chioma 2013), reveals that while 70% of the contents on federal television NTA in Lagos are of cultural significance and promote cultural learning with 88% locally produced programs; only 43% of the contents on a private television station in Lagos, Silverbird TV, were of cultural relevance with just 54% locally produced programs. A need for reinventing Nigerian private media (Okunna 2003), to curb the negative effects of news commercialization and profit orientation that downgrades issues of national interest and development is advocated as a recommendation in her study. While some (Ugwoke et al. 2009) demonstrate positive and effective contributions of the Nigerian mass media in socio-economic development, others (Nwanne 2018) see the hindrance coming from the governments' lack of sense of urgency and commitment in setting effective development objectives for the media to complement through specially designed programmes and advocacy.

Data Presentation and Analysis

For the survey, a total of 83 employees from Liberty FM Radio and Freedom Radio in Kaduna City Nigeria were surveyed. Both radio stations were originally registered as private broadcast entities. All respondents say their basic income is salary only, with no bonus or commission. Broadcasting, unlike the print media is a capital intensive industry. What becomes clear from the data is the stark difference between the respondents' counterpart stations where the government finance everything including salaries. The privately registered stations have to work doubly hard to attract enough advertisements and sponsorship programs to stay above water. As to specific data regarding questions posed by the study, it is clear from the table below (Table 1), that ownership at 42 percent of respondents and financial challenges at 41% of respondents were chosen as the leading problems for both private FM radio stations.

Table 1. What major problems do you encounter at your station?

Issues	Number of Respondents	Percentage
Ownership	35	42.1%
Power Supply	2	2.4%
Tribalism	12	14.5%
Financial challenge	34	41%
Total	83	100

Maintaining ones' objectivity and saying it as it is, is not the norm at times, when it may negatively impact the political and/or monetary financial interest of the owner(s) of the stations. Interjections of opinion of owners into professional decisions of station operators at 42% of

respondent, even on important matters of national interest, is an issue (example). Advocacy and suppression of content (gatekeeping) does occur on subjective basis regardless of national interest, based mainly on ethnic and/or regional (north/south) loyalty. About 14% of respondents expressed ethnic influence opinion.

As for financial challenge, at 41% of respondents, industrial operations and activities in Kaduna and its suburbs has suffered major decline within the last 20 years (). The impact on commercial activities and resulting low marketing and sales including program sponsorship that such stations enjoy meant a significant reduction in income and financing.

Another finding relating to the second question this study aimed to answer is displayed on table 2 as below. The quality of programs carried by the two private stations do stand out as they work hard to maintain their lead against their competition within the private stations domain as well as the more financially sound government stations. For the four categories of quality rating presented as choice to the respondents, 45% of them at 37 respondent rated quality at very high, while 55% at 46 respondents rated the quality at high. None chose average or below standard rating.

Table 2. How would you rate the quality of broadcast on your station?

Rating	Number of Respondents	Percentage
Very High	37	44.6%
High	46	55.4%
Fair	0	0%
Bellow standard	0	0%
4.9 Total	83	100

The study also sought the respondents' opinion as to what factors they think contributed to their strength and success in comparison with other stations. The Listed attributes were; quality of programs, length of broadcast, station's coverage area, and technical quality (i.e. in relation to equipment and clarity of reception). Those who picked 'all of the above' were by far the highest at 88% of respondents, followed by quality of programs at 6%.

Table 3. What do you consider your strength when compared to other stations?

VARIABLES	FREQUENCY	PERCENTAGE
Quality of programs	5	6.0%
Longer hours of broadcast	2	2.4%
Wider coverage area	1	1.2%
Quality output	2	2.4%
All of the above	73	88%
None of the above	0	0(0%)
Total	83	100

The study has therefore been able to answer both questions. For question one posed by this study, the answer is yes. The private media appear to have raised the bar for quality of programming content, i.e. in-depth coverage of issues and analysis, as well as technical broadcast quality. And for the second question on contribution to national development, the private media have significantly improved media performance in that arena owing to in-depth coverage of issues and agenda setting on issues of national interest, including expansion of competing views and opinions that enriches discourse. However, ownership interference and financial challenges seem to impact progress on

issues of social but most importantly political, and economic development. By populating their media outlets with their and other elite views (Okwuchukwu 2014) private media owners may skew ideas and negatively impact the society at large. It is therefore safe to say, in conclusion, that the present drawbacks barring stellar performance are undue influence from station owners plus insufficient operational finances.

Conclusion and Recommendations

Based on the findings of this study, a mutually significant role is possible if the Nigerian government at federal and state levels could come up with concrete short, medium and long term development plans, for the media to complement through advocacy and programming. “The media can only complement government” policy regarding law and order and other issues (Nwantok & Aikulola 2020)), the media does not have the power to make the law or regulations for the general benefit of the people. As for the private media, they should find ways to raise regular alternative funds that allow them to generate a buffer in cases where advertisements and sponsorship fail to raise enough funds for station operations. The study also recommends further studies along the same lines that will include the role of private television stations in order to get a better understanding of the entire private broadcast media industry.

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Based Proposals for the Elimination of the Quality of a Magistrate held by Romanian Prosecutors

Bogdan David

*“Dimitrie Cantemir” Christian University of Bucharest, Faculty of Juridical and Administrative Sciences,
Bucharest, Romania, asr.bogdan@yahoo.com*

ABSTRACT: In the Romanian justice system, the prosecutor is still assigned the quality of magistrate. We consider that this is a legal inaccuracy that belongs to a decadent line of justice that affects the legal system, creating real and justified doubts among litigants. The present study aims, through judicious legal references, to convince the parliamentarians of the Legal Commission, to propose for debate the elimination of the quality of magistrate, which the Romanian prosecutors have, they having a double hierarchical subordination: legal (from superiors) and political (from the part of the Minister of Justice, which proposes the leaders of the supreme prosecutor’s offices); therefore, the prosecutor has no powers to establish one’s guilt or innocence and the title of “magistrate” is this inappropriate for him, as he is a “State attorney”, similar to what in the US is called a “District attorney”. In arguing this study, we will start from the analysis of the terminology of the name “magistrate”, as it was known since antiquity, the Middle Ages and later in the Roman legal system. Until the installation of the communist regime, the Romanian diachronic legal system kept the natural valences of this profession of prosecutor, but, unfortunately, after Romania was liberated from the communist totalitarian system in 1989, this decadent legal position was maintained, relative to maintaining the quality by the “magistrate” of the prosecutor.

KEYWORDS: Magistrate, prosecutor, legal inequity, fair trial, principle of legality, procedural guarantees.

Diachronic references regarding the notion and activity of the magistrate

The notion (term) of *magistrate* derives from the Latin *magistratus* which in antiquity, during the domination of the Roman empire, designated the person of the praetor, namely a high dignitary, and in ancient Greece meant, ruler or dignitary. In the middle Ages, the term magistrate was used to refer to a civil servant who was elected, as was the judge, namely the person who was meant to be a factor of social balance and to be arbitrators in society.

Magistratus ordinarii (ordinary magistrates) and *magistratus extraordinarii* (extraordinary magistrates) were two categories of officials who held political, military and, in some cases, religious power in the Roman Republic. Ordinary magistrates were elected annually (except for the censor) and served for a term of one year. Usually, at least two of the ordinary magistrates were elected to prevent a single person from taking too much power. By contrast, extraordinary magistrates were elected only in special circumstances and did not always have a colleague. They were superior to ordinary magistrates (ro.wikipedia.org).

In Roman times, civil justice was administered by the appointment by a magistrate of a competent court and the election of a judge to lead the trial and dictate the sentence (istorie-edu.ro). Also in the Roman era, criminal justice (*iudicia publica*) was performed by a tribunal composed of a president (praetor or magistrate with this position) and jurors elected by drawing lots from the list of judges (between 3 and 11 members) (istorie-edu.ro).

The organs and the trial procedure of the Romans knew two types of trials: public trials and private trials.

a. Public trials (*iudicia publica*) were those that interested the entire Romanian people and had as object public crimes: betrayal of the country, the murder of a Roman citizen, the desecration of religious things. These were judged directly by the magistrate.

b. Private or private proceedings (*iudicia privata*) are those that interest individuals, certain individuals. Judicial organization is different, unlike judicial organization found in public trials. The peculiarity lies in the actual division of the process into two phases:

- The first phase took place before the magistrate, called *jus* or *in jure*;
- The second phase before the judge, called *judicio* or *in judicium*.

Over time, two procedures followed: the procedure of the actions of the law (from the founding of the city of Rome until the end of the second century) and the formal procedure (introduced after the second century, by the Aebutia Law).

The trials between individuals took place, initially, before the magistrate. At first, the judicial magistrate was one of the two consuls, but after 366-367 there was a need for an additional magistrate. Thus, a new magistracy is created - the *praetura*, the magistrate being appointed *praetor*. Due to their high occupancy rate, a new magistrate appears - the pilgrim praetor.

Magistrates had two powers: *imperium* (command power in civil and military law) and *jurisdictio* (giving a judge to the parties to the trial).

The activity of the magistrate consists in: *do, dico, addico*:

- *do* - listening to the parties;
- *dico* - word used to attribute to a party the possession of the thing in respect of which the dispute exists;
- *addico* - a word used when the plaintiff is assigned the thing on which there is a dispute or when the defendant who did not defend himself properly is passed into the power of the plaintiff.

As can be seen from the above, the magistrate was the person who performed the act of civil or criminal justice. He was considered to be impartial and decided freely after listening to the accuser and the defender. The trial took place in places called basilicas and the magistrate was seated in a high chair with a position that allowed him to look down on the parties to the trial (Jakotă 1993, 101; Molcuț and Oancea 1993, 82-86).

The argumentation of the proposal to eliminate the term of magistrate held by the prosecutor

The legal system in Romania functioned for decades according to rules specific to the totalitarian system and obsolete practices, preserved even in the period after the 1989 Revolution (Danileț 2014).

The first argument on which we base our proposal, originates from the regulation of art. 126 of the Romanian Constitution which legislates that: “Justice is achieved through the High Court of Cassation and Justice and other courts established by law” that the judge does not bring into question the institution of the prosecutor or the Prosecutor’s Offices, but refers **exclusively** to court cases in which only judges carry out their activity.

This discussion was also submitted to the attention of the Constitutional Court in which a petitioner, invoking an exception of unconstitutionality on the provisions of art. 63 para. (2) and art. 65 para. (1) of the Criminal Procedure Code, sees the judges of the Constitutional Court in motivating the exception of unconstitutionality, arguing, in essence, that the criticized laws are unconstitutional, because it regulates the competence of the prosecutor to assess and administer evidence, thus assigning to him both the functions of criminal investigation and investigation, giving him both the quality of representative of the Public Ministry and that of investigating judge. However, the prosecutor does not have the quality of “magistrate” within the meaning of the ~ Convention ~ for the protection of human rights and fundamental freedoms. As a result, the evidence administered by the prosecutor is illegal and cannot be used in criminal proceedings (Decision no 1503/2010, Official Gazette, Part I no 8 of January 5, 2011).

Also, the aforementioned Decision states that: “According to the Constitution, the Public Ministry is a component part of the judiciary, and not the executive or public administration” which is correct and corresponds to the organization of the judiciary in Romania.

In Decision 983 of 2010, of the Romanian Constitutional Court, it is specified that: “In the criminal process in Romania, the prosecutor acts as a defender of the general interests of society, but also of the party in the process, in the spirit of legality” (Decision no 983/2010, Official Gazette, Part I no 551 of August 5, 2010). Or, the magistrate judge does not defend the interests of a part of a trial

but, through an impartial attitude, he is the guarantor of finding out the truth, the person entitled to do justice. Moreover, the judges are appointed by the President of Romania, enjoying immovability, a privilege not granted to the prosecutor, who acts instead “under the authority of the Minister of Justice”. It is ineluctable that, according to the Constitution, the judge has a higher role than the prosecutor, and the quality of magistrate must be granted only to the judge and not to the prosecutor.

Another argument we base on is that the judge is not hierarchically subordinate but independent, instead the prosecutor defends the normative order, and thus does not unbalance the process in favor of one or another of the right holders prosecuted *The prosecutor is not a party (...), He is an organ of the law* (Decision no 68/2005, Official Gazette, no 145 of February 17, 2005).

According to the law, the prosecutor is nothing more than a defender of civil rights and freedoms or accuser of persons (natural or legal), having a double hierarchical subordination: legal (from superiors) and political (from the Minister of Justice, who proposes the leaders of prosecutor's offices supreme); therefore, the prosecutor has no power to establish one's guilt or innocence, and the title of “magistrate” is thus inappropriate for him to be a “state attorney”, similar to what in the United States is called a “district attorney” (Danileț 2014).

In Decisions no 345/2006 and no 385/2010 of the Romanian Constitutional Court, its judges ruled that by applying the principle of hierarchical control, it ensures the fulfillment by all prosecutors in the Public Ministry system of their function of representing the interests of the whole society, in other words, the exercise of the attributions of public authority by him, without discrimination and without bias. By virtue of this principle, the Public Ministry is conceived as a pyramid system, in which the law enforcement measures adopted by the hierarchically superior prosecutor are mandatory for subordinate prosecutors, which gives substantiality to the principle of hierarchical exercise of control within this public authority (Decision no 345/2006, Official Gazette, Part I no 415 of May 15, 2006 and Decision no 385/2010, Official Gazette, Part I no 317 of May 14, 2010).

According to art.131 paragraph (1) of the Constitution, prosecutors are subject to the principle of legality, but from the provisions of art.315 and 316 of the Criminal Procedure Code we can conclude that they allow the prosecutor, who participates in judicial debates, to be biased because the sitting prosecutor drew up the indictment in question or carried out or supervised the criminal investigation, and the constitutional obligation of impartiality does not subsist for the prosecutor in these cases.

We consider that the principle of hierarchical subordination, specific to the Public Ministry, contradicts the constitutional principle of impartiality and is likely to prevent the prosecutor participating in the trial of complaints made under Article 278 of the Criminal Procedure Code, to be impartial when complaints are directed against resolutions or orders given by his hierarchical superior, even if it is assumed that the prosecutor is free to present to the court the conclusions he considers justified according to the law and taking into account the evidence administered in the case. As long as there is hierarchical subordination, there can be no independence and impartiality in a judicial system.

Although the prosecutor is subject to hierarchical control only against the head of the prosecutor's office, and he can exercise only within the legal framework, the prosecutor having the right to complain to the Superior Council of Magistracy of interference, the current status of the prosecutor does not correspond to the claim of impartiality. The pseudo-independence of the prosecutor magistrate cannot be presumed either due to the connections with the executive power, regarding the appointment of prosecutors in the positions at the top of the Public Ministry.

It can be seen, from the multitude of legal regulations, judges and prosecutors, although both enjoy the quality of magistrate, their functions and roles in the judiciary are, to a very large extent, different, and in conclusion, the quality of magistrate should be attributed only to the judge.

Proposal for the establishment of the Institute of the Public Ministry

With the loss of the quality of magistrate by prosecutors, the legitimate question arises, what will be the way in which law graduates, who want to become prosecutors, will be able to elucidate this position, given that this position can no longer be acquired within the National Institute of Magistracy because prosecutors will no longer be magistrates. In this sense, we propose the establishment of an institute, like the National Institute of Magistracy, to operate under the authority of the Public Ministry in which potential prosecutors will take the entrance exam and those declared admitted will follow a 2-year training course.

Also, with the elimination of the quality of magistrate for prosecutors, they will no longer be part of the Superior Council of Magistracy and a structure called the National Order of Prosecutors will be established which will have its own state of organization and functioning.

Regarding the physical position of prosecutors in courtrooms, they will no longer sit next to judges but next to lawyers, and the court panel will be the only one that will have a higher position than the entire courtroom. Thus, the magistrate judge, from the height of his professional and moral valences, will look at the two parties (the accusatory one, represented by the prosecutor and the defense one, represented by the lawyer) symmetrically and equally, thus respecting presumption of equal legal treatment.

Conclusions

The proposals made in this approach are innovative in nature for the Romanian judicial system, but which imply a radical change of vision of the organization and functioning of the Romanian justice system, which, if implemented, will provoke pros and cons (necessary and of course in a democratic society) but we are sure that they will be the necessary element for a trustworthy justice of citizens and similar international judicial bodies.

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Traits of Effective Leaders: A Literature Review

Christopher Ardueser¹, Kruti Lehenbauer²

¹*DBA Student, University of the Incarnate Word, United States, coardueser@gmail.com*

²*Professor of Business, University of the Incarnate Word, United States, Lehenbau@uiwtx.edu*

ABSTRACT: Utilizing research to identify an effective leader is essential for creating a strategic business operational leadership model. The purpose of this literature review is to focus on select objective and less objective traits of leadership among individuals who are in those positions. We explore literature on objective leadership traits such as gender, age, education level, and job satisfaction level and on the less objective traits such as integrity, energy level, and business knowledge, among others. The goal is to evaluate the hypothesis that some, if not all, of these traits contribute significantly to effective leadership by analyzing the available literature about traits of an effective leader. We will explore the theories that have been proposed on this subject in the literature, identify to what degree researchers have investigated these theories, and try to confirm which of these traits continue to significantly be related to successful leadership. The purpose of this paper is to generate a thorough literature review which can later provide a reliable platform for further qualitative, quantitative, or mixed-methods research to create standards that business practices can utilize as a model for leadership identification and integration.

KEYWORDS: Leadership Traits, Gender, Age, Education, Effectiveness

Introduction

Scholars have defined leadership in different ways. Kotter (1999) stated that leadership inspires change in some fundamental ways in order to take advantage of new opportunities and that its function is to create the systems and organizations that managers need, and eventually, elevate them up to a whole new level. Northouse (2013) defined leadership as a process whereby an individual influences a group of individuals to achieve a common goal. Yukl (2003) stated that leadership is the process of influencing others to understand and agree about what needs to be done and how to do it, and the process of facilitating individual and collective efforts to accomplish shared objectives. It is important to note that the word “change” is standard in these definitions, implying that effective leadership drives positive change in an organization. If a leader is expected to influence change in an organization or a system, it is imperative to identify what traits or characteristics of a good leader set them apart from the others. This paper aims to identify a specific set of objective or subjective individual traits of a leader that can profoundly influence positive change in an organization.

The study addresses the theory that objective leadership traits such as sex, age, education level, and the less objective traits such as integrity, energy level, and business knowledge can affect one's ability to be an effective leader. The purpose of this literature review is multi-fold. First, we aim to identify which traits are supposedly contributing to effective leadership based on existing studies in the field. Then, we try to determine if the identified traits have significant impacts in terms of effectiveness as a leader or if the effectiveness is circumstantial and, therefore, not significant, by comparing and contrasting various research papers that analyse each trait. The literature review approach will help us to clearly identify existing theories and models of individual traits and effective leadership, explore and evaluate them, and can potentially help with the development of any new research in this field.

Influential leaders are not merely born or made; they are born with some leadership ability and develop that ability. They can add to their skills and fine-tune the ones they were born with (Johnson, Vernon, and McCarthy 1998). Whatever a person's leadership ability is, a person can develop their leadership skills to the level they choose (Lussier and Achua 2004). We hypothesize that certain traits such as age and gender can objectively affect effective leadership and while education and experience cannot always be developed, their impact on leadership effectiveness can be objectively quantified. On the other hand, less objective but critical traits

such as integrity, business knowledge, and energy level can be developed and can be measured using clear definitions and parameters. It is important to note that most of the leadership trait effectiveness research primarily relies on subjective evaluations (Judge, Piccolo, and Kosalka 2009). Thus, we start by focusing on the literature that discusses objective traits in the next section. Thereafter, we will discuss the less objective traits and their impact on effective leadership before offering a culminating discussion of the importance of these traits to a business. The goal is to create model that can be objectively tested using data in the field of effective leadership.

Objective Traits in Literature

We start our discussion by focusing on traits that cannot necessarily be developed through interventions but can be easily and quantitatively measured and compared across leaders. We focus on age, gender, and educational attainment. One can argue that educational attainment can be developed among leaders, but once an individual is in the workforce, the pursuit of educational goals often comes at the cost of sacrificing personal or professional time. This might prevent many people from actively pursuing educational attainment as they get more entrenched in the workforce or could result in taking significantly longer to get more education. Thus, considering education level as an objective trait that is measurable in terms of “years of schooling” is a better way to encapsulate the impact that educational attainment might have on an individual’s ability to be an effective leader. Even though it was identified that the traits examined had some effect on leadership levels, literature pointed more to outcomes within those traits. It was not precisely the objective trait itself, but characteristics tied to a specific trait that appear to impact effectiveness of a leader as we can show in the discussion below.

A. Age and Effective Leadership

While age is an easy-to-measure trait, the evidence from literature suggests that there is no clear indication of whether age impacts the ability to be an effective leader. Doherty (1997) used a Multi-Leadership Questionnaire (MLQ) on a sample consisting of 114 leaders and found that younger leaders were more effective leaders than older leaders. Gilbert and Brenner (1998) collected data from 1634 leaders over three years and determined that younger leaders performed better and were more relationship oriented as compared to older leaders. But this outcome is not to be found in the literature on a consistent basis. For instance, Tabbarah, Crimmins, and Seeman (2002) performed a longitudinal three-site cohort study and Colcombe (2003) performed a literature analysis to conclude that older individuals were more effective as compared to their younger counterparts in terms of leading productive teams. Experiments done by Boerritger (2015) demonstrated that there was no significant link between age and leadership outcomes and that older leaders are neither better nor worse than younger leaders in achieving effective leadership.

Shore, Cleveland and Goldberg (2003) analysed information obtained from 185 managers (leaders) and 290 employees (followers) and found that the age of the leader and follower satisfaction were positively related among older followers but negatively related among younger followers. This result suggests that it is not the age of the leader, but rather it is the age of the followers that impacts effective leadership. A review of literature by Rosing and Jungmann (2015) suggested that differences in the age gap between the leaders and the followers was rather small and that more work is needed to be able to draw reliable conclusions on the consequences of age differences between leaders and followers in general and of younger leaders leading older followers specifically.

Evidence determined age did influence leadership, however the extent of the effect varied in different ages when examining the leader to follower. Additional evidence showed that one’s age was related to the style of leadership that was more closely related to that age and how certain styles had different effects depending on the leader to follower age gap (Boerritger 2015)

and that different ages displayed different styles, resulting in the ability to be an effective leader. An additional point that Doherty (1997) raised is that transformational leadership tends to occur more frequently among younger leaders than among older leaders. Moreover, emotional abilities of a leader have been shown to promote a range of outcomes that indicate effectiveness (Walter and Scheibe 2013), implying that if emotional abilities are positively associated with age, then effectiveness of a leader should also be positively associated with age. And while this contradicts what Doherty (1997) and Boerrigter (2015) found, it underlines the dilemma of whether age and leadership effectiveness are truly related to each other or there are other underlying factors that dominate. Colcombe (2003) examined the literature and concluded that older leaders had maintained higher cognitive control and physiological flexibility (Tabbarah, Crimmins, and Seeman 2002), which allowed them to utilize their accumulated knowledge and experience more effectively. Water and Scheibe (2013), was able to conclude from their literature review that older leaders may be able to effectively draw on their greater emotional knowledge and experiences, thus benefiting distinctly from improvements in emotion understanding and regulation. As such, the consequences of age-related gains in emotional abilities may prevail over associated losses in routine, stable, and less challenging situations, facilitating older leaders' effective leadership behaviors. Tohidi (2011) presented a thorough literature review and classification based on how leadership styles affect the outcomes of a team's productivity consistently. Leadership styles have been known to adapt and gain strength in their effectiveness as they evolve over time, indicating that effectiveness increases with an individual's age, not just because of the nominal aspect but due to the experience and emotional clarity that is likely to come with age (Eden 1990; Jacobs & Singell 1993; George and Bettenhausen 1990).

Cagle (1998) conducted a survey of 652 employees in a factory and concluded that age is one of the most critical factors that determines one's leadership style since it directs behaviors. Leadership effectiveness can also be related to either emotional or cultural attributes. Cultural attributes have been associated with different age groups or generations. Glass (2007) suggested that each age group possesses a generational persona recognized and determined by common age, location, shared beliefs, and behavior. Murphy, Anderson and Gorden (2004) found that there were value differences across different age groups. These differences indicated how the management style was affected in each age group, particularly when considering how individuals led their teams. An ethnographic study conducted by Ahiazu (1989) showed that cultural beliefs may affect perceived leadership effectiveness and be seen to be a function of one's age. When we look at emotional contributors related to age, literature has found that emotional experience influences one's behavior. Experiences are gained as one increases in age and the quality of these experiences affects how an individual behaves, especially in leadership roles (Watson, Wiese, Vaidya, and Tellegen 1999). Walter and Scheibe (2013) confirmed this observation when they found that emotional experience may serve as the mediating mechanism between age and leadership behavior. Thus, the biggest takeaway from the literature is that age and effectiveness of a leader have some relationship, whether it is direct or not cannot be confirmed or denied.

B. Gender and Effective Leadership

Gender is one of those native traits that an individual has that cannot be molded or developed. As more women enter leadership positions the debate over which gender is a more effective leader rages as strongly as ever. Even though more women are now in leadership positions, Zenger and Folkman (2012) showed that most leaders (64%) were still men, and the gender gap is even higher at higher levels of leadership. Within managers, directors, and executives, it was observed that if management was split into three tiers, 78% in the top tier, 67% in the middle tier, and 60% of the bottom tier of managers were men. This automatically implies that most of the research focusing on the role of gender in the literature might tend to be biased, primarily due to the lack of sufficient and equivalent female leadership. Literature shows that while many people do not consider gender as a direct trait impacting effective leadership, they do tend to consider gender-

related personality traits as the factor (Ayman and Korabik 2010) contributing to effective leadership. For instance, male leaders in a male dominated field like construction or in the military where male traits are more desirable in authoritarian leadership styles might be more effective due to the sheer expectations of certain behaviors in a leader that are supposedly “masculine.” This ultimately boils down to cultural and innate biases that might be a part of the “followers” rather than the leaders themselves in terms of how effective they are able to be in their roles. We state this because this conclusion is along the same lines that Rosing and Jungmann (2015) found regarding the relationship between age of followers and effectiveness of a leader.

Literature suggests that women's advantages are not confined to what are traditionally female strengths, but instead, these advantages are often seen at all levels. More women had been rated by their peers, bosses, direct reports, and other associates as better overall leaders than their male counterparts. Additional theoretical frameworks and literature surveys focusing on gender differences in leadership effectiveness show that when all leadership contexts are considered together, gender differences are insignificant or non-existent (Eagly and Karau 2002; Paustian-Underdahl, Walker, and Woehr 2014).

When considering leadership styles, meta-analysis of over 45 studies suggests that women have been found to use more effective leadership styles than men (Eagly, Johannesen-Schmidt, and Van Engen 2003). This meta-analysis examined the differences between men and women on leadership styles and found that women dominated in transformational, transactional, and *laissez-faire* leadership styles suggesting that women had a more transformational influence than men on their teams. Gender has been found to matter in specific industries where more dominant gender traits associated with specific leadership styles was found to be more effective. For instance, studies show that women leaders in male-dominated settings might be at a disadvantage in terms of selecting teams, or even being selected as leaders in the first place (Davidson and Burke 2000). Eagly, Makhijani and Klonsky (1992) had concluded that this occurred because women are, at times, devalued in male-dominated settings. On the other hand, Eagly, Karau, and Makhijani (1995) stated that women reported faring better in female-dominated settings, such as education and government or social services because their role and the expectation of their dominant traits matched up more closely. Similarly, Davidson and Burke (2004) found that men were preferred as leaders in more masculine or gender-neutral settings. In a study by Shahmandi, Siling and Ismail (2012) they suggested that their research strongly indicates that gender plays a significant role in leadership effectiveness in institutions of higher education. This is an interesting result because it indicates that females have better leadership effectiveness in a field that is otherwise dominated by males with 62% of males occupying full-time positions (National Center For Education Statistics 2017).

Overall, the literature suggests that intelligence and innovation amongst genders play a role in effective leaders. A large majority say that men and women display those qualities equally when it comes to intelligence and innovation, but they do make distinctions between men and women on certain leadership qualities. A survey conducted in 2015 by the PEW research center indicated the public sees little distinction between men and women on several leadership qualities, particularly the ones that are associated with supportiveness and dependability. Zenger and Folkman (2012) determined through surveys that women were rated higher in competencies that go into what they defined to be outstanding leadership at all levels. The two traits where women outscored men to the highest degree were taking initiative and the drive to attain meaningful result (Zenger and Folkman 2012). Ironically, these have long been thought of as mainly male strengths and it is likely that this misperception continues to have a hidden impact on the teams that are being led by women. It is important to note that in the Zenger and Folkman (2012) study, men outscored women significantly on only *one* management competency in this survey, and that was the ability to develop a strategic perspective. On a lighter note, we would like to state that based on these outcomes, the best strategic move that male leaders can make would be to hire more women in leadership positions that require taking initiative and driving home results.

C. Education or Intelligence and Effective Leadership

As mentioned earlier, one can argue that education is not necessarily a native trait and can be developed over time. However, given that the opportunity costs of gaining education increase substantially after entering the workforce, we can use education as a measurable trait that has the potential to impact effective leadership. In the literature, education is considered in two distinct ways; one is based on the degree earned and the other is based on the level of intelligence. While there tends to be a high correlation between level of intelligence and the highest degree earned by an individual, it does not always imply causality in either direction. Chamorro-Premuzic & Frankiewicz (2019) reviewed a series of meta-analyses testing the relationship between education level and job performance and found that the relationship is weak, at best. The literature in general, seems to indicate that higher educational levels can be associated with more effective leadership traits and the ability to effectively execute a variety of dynamic leadership styles. SMT (2016) showed that leaders with an MBA were rated higher on transformational leadership than those without, and Stout-Stewart (2005) found a positive relationship between education and all five Exemplary Leadership Practices measured on the Leadership Practices Inventory. Deary and Johnson (2010) suggested that more time in school does lead to greater intelligence, and if education level is determined to be a trait of effective leadership, then intelligence rather than education level would be the measuring factor. Besley, Montalvo, and Reynal-Querol (2011) performed an analysis of 1000 political leaders and found the view of heterogeneity amongst leaders that educational attainment is important is a result of having leaders who are more highly educated. Thus, leaders with higher education expect other leaders with higher levels of education to be more effective as an innate bias. However, this bias might not be entirely baseless. For instance, Green, Chavez, Lope and Gonzalas (2011) did a meta-analysis and found that educational attainment is positively associated with self-esteem, positive job attitudes, entrepreneurial success, social capital, and access to mentorship. They also found that higher levels of education increase the desire for leadership, integrity, charisma, team, and performance orientation (Green, Chavez, Lope, and Gonzalas. *et al* 2011). Thus, while the study did not test the relationship between effective leadership and education, it did find that higher educational levels allowed the attainment of certain traits that can affect one's ability to lead.

There are several data-driven arguments that question the actual, rather than the perceived value of a college degree and find that intelligence scores are a better indicator of job potential and therefore leadership effectiveness (Alves 2011; Johnson, et al. 2016). In his literature review, Deary and Johnson (2010) concluded that intelligence has a strong causal effect on educational results, suggesting that any relationships to effective leadership considering education level can be related more to intelligence. In contrast, Lahoti and Sahoo (2016) determined that education has no impact on a leader's effectiveness and empathize with the problems plaguing his or her constituency. Literature did not give any definite relationships between education level and effective leadership directly but suggests that higher educational level creates the strengths associated with effective leadership.

Mattson (1996) found that is difficult to retain the loyalty of followers or to obtain cooperation and support from peers and superiors without integrity. Lussier and Achua (2004) referred to integrity as a behavior that is honest and ethical, thus making a leader trustworthy. Trustworthiness is an essential aspect of business success and relationship building. For a leader to have followers, those followers must be able to trust their leader. Oosthuizen (2004) was able to show that leaders have above-average intelligence and that this intelligence was not directly related to IQ scores, but more significantly related to business practice or intelligence and knowledge of the business itself. This result suggests that a formal education may not be the key variable in effective leadership. Like our other so-called objective traits of age and gender, educational attainment also shows a mixed bag of results in the literature. However, a common thread that runs through all of these articles is that there are some intangible aspects that each of these traits contribute towards creating effective leaders, and therefore using them as control variables could help explain some of the fluctuations that occur when considering the effectiveness of a leader.

Subjective or Less Objective Traits in Literature

In literature on effective leadership, various traits that have been analyzed and they range from being concrete or objective to extremely subjective traits. Gibson, Ivancevich, and Donnelly (2000) stated that the general approach in the literature on Trait Theory appears to assume that only a finite number of individual traits can be attributed to effective leaders. We considered the primary objective traits in the previous section so we will briefly consider some subjective or less objective traits in this section. Studies have reported that these traits contribute to leadership success, but it is essential to remember that leadership success is, neither primarily nor completely, a function of these or other traits. Lekganyane and Oosthuizen (2006), surveyed 3080 participants at the middle management levels and found that integrity, intelligence, and high energy were the dominant traits that subordinates valued in their leaders from the survey data. Job satisfaction has also been identified as a prominent factor associated with effective leadership in the literature (De Groot, Kiker and Cross 2000).

A. Job Satisfaction and Effective Leadership

Bedeian, Ferris, and Kacmar (1992) conducted hierarchical polynomial regression analysis and found that tenure was a stable predictor of job satisfaction. De Groot, Kiker, and Cross (2000) followed up on this research and reported a high level of significance between effective leadership and job satisfaction via meta-analytics. Conger, Kanungo and Menon (2000) also confirmed that effective leadership is related to several factors, of which tenure was crucial. ANOVA analysis by Vlachos, Panagopoulos, and Rapp (2013) displayed a more substantial leadership-follower relationship when there is higher job satisfaction. Effective leadership can then be tied to strong relationships and these relationships gain strength as the leader has tenure. Tenure is gained from higher levels of job satisfaction in the leader position. Thus, tenure and leadership skills are intricately related to each other and as both of these grow, so does the effectiveness of a leader.

Job satisfaction and leadership effectiveness relations can be displayed in the leader and the follower's job satisfaction. Research has shown that when both the leaders and the followers are satisfied in their jobs, the effectiveness of the leader and the willingness of the followers to adapt to the leader's vision are both higher (Volmer, Niessen, Spurk, Linz, and Abele 2011). Literature also reveals that happiness measures, including job satisfaction, directly affect the effectiveness of a leader (Lyubomirsky, King and Diener 2005; Diener, Kesebir and Lucas 2008; Boehm and Lyubomirsky 2008). Happy people are judged as strong performers and show increased creativity and problem-solving skills, are more involved in their jobs, receive more benefits in the form of interpersonal rewards, and were more likely to remain at their jobs (have tenure). Volmer, Niessen, Spurk, Linz, and Abele (2011) stated that in terms of the Broaden-and-Build Theory (Fredrickson 1998; 2001), a positive attitude builds resources, which in then helps when establishing positive and rewarding social interactions.

Goleman and Boyatzis (2008) found that the ability to have social interactions and processes had strong and positive effects on leadership and related effectiveness. Thus, leaders who have a high level of job satisfaction also have positive social interactions and can influence their followers positively thereby leading to a multi-dimensional effectiveness that changes the organization for the better. Additionally, Volmer, Niessen, Spurk, Linz, and Abele (2011) stated that positive job attitudes (job satisfaction) lead employees toward contributing rather than withholding inputs. Ketchum and Trist (1992) presented six aspects of "objective characteristic of meaningful work" and one of them was the ability to contribute. Volmer, Niessen, Spurk, Linz, and Abele (2011) found that as leaders contribute more towards their job and their teams, their level of effectiveness in leading a group increases, thereby leading to higher levels of job-satisfaction, setting in motion a positive cycle of change.

B. Drive and Effective Leadership

Kirkpatrick and Locke (1991) indicated that effective leadership comes from “drive”, which is simply a broad term that includes personal characteristics such as achievement, motivation, ambition, energy, tenacity, and initiative. Bateman and Snell (1999) found that leaders tend to have a higher drive and work harder to achieve both, their personal as well as the company’s goals. They also have the enthusiasm and do not give up. They have a high tolerance for frustration as they strive to overcome obstacles through preparation. They take the initiative to bring about improvements rather than ask permission. This suggests that when a leader acts based on their own “drive” they will display a more effective leadership style. As we discussed earlier, Zenger and Folkman (2012) found that even though drive has been traditionally considered to be a male-dominant trait, more female leaders dominate in terms of having this intangible “drive.” When it comes to subjective traits, all the aspects we covered under “drive” can be individually analyzed and compiled. However, subjective and intangible values are usually challenging to measure and are too dynamic to be fit into a neat little model. Thus, not many quantitative studies have been done using these traits in the literature.

Conclusions and Future Scope

In this paper, we have presented some selected traits that appear to affect an individual’s ability to be an effective leader. While the literature shows that displaying certain traits alone does not guarantee leadership success, there is evidence that effective leaders are different from other people in certain vital respects and there are certain core individual traits that can lead to effective leadership. We found that the literature is full of mixed results when it comes to directly relating individual traits such as age, gender, educational attainment, tenure, job satisfaction, and drive with the effectiveness of an individual as a leader. However, a common theme in the literature is the fact that none of the research discounts these individual traits, suggesting that there could be some intervention variables that directly impact effectiveness but are in turn affected by these traits. There could also be relationships between and among these individual traits that should be considered separately. For instance, it would be interesting to study whether males more likely to enter fields such as business or if females are more likely to enter fields such as education. And if these educational choices are driven by gender-dominant traits, the characteristics required for effective leadership in these fields are also likely to be affected by this string of choices that individuals make in their lifetime. Our paper does not attempt to answer or address these questions, but our current analysis raises the possibility of studying these questions in a separate context to analyze what makes a truly effective leader, and whether the type of effective leadership looks different in different fields.

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General Principles of Legal Devolution Exceptions

Adriana Tuluș

Jurist, Master's student at Titu Maiorescu University, Bucharest, Romania, adrianatulus@yahoo.com

ABSTRACT: As far as my choice for this subject is concerned, I should say that I chose it because I considered that it concerns one of the most important institutions in succession matters being necessary in order to establish both the order of the coming to the inheritance among the classes of heirs, but also the priority of the coming to the inheritance of the relatives of the deceased who belong to the same class of heirs. The general principle of legal devolution means that basic rule, which is capable of wide-ranging application; a guiding idea, common to all legal relations aimed at legal development. The devolution of the inheritance is the attribution of the inheritance to certain heirs. By inheritance representation, a legal heir of a more distant degree, appointed representative, ascends, by law, to the rights of his ascendant, appointed representative, in order to reap the part of the inheritance which would have been due to him if he had not been unworthy of the deceased or deceased at the time of the opening of the inheritance. With regard to the term of "successors" and that of "heirs", in the new Civil Code they designate the same person: the one called to the inheritance, but the term heir is preferred. The successor is sometimes used as a synonym for the term "heir", but it is also used with a distinct meaning, also existing in the old Civil Code: that of heir who accepted the inheritance, who is in a situation of individuation with the other successors.

KEYWORDS: succession, heirs, civil code, devolution, principles, exceptions

Introduction

Regarding my option for this topic, I specify that I chose it because I considered that it targets one of the most important institutions in matters of succession being necessary to establish both the order of coming to inheritance among the classes of heirs, but also the priority of coming to inherit the relatives of the deceased who are part of the same class of heirs.

The general principle of legal devolution means that basic, governing rule susceptible of wide applicability; a guiding idea, common to all legal relations aimed at legal devolution.

The notion of "devolution"

The devolution of the inheritance represents the attribution of the succession patrimony to certain heirs (Genoiu 2013, 46).

The legal devolution of the inheritance represents the transmission of the succession patrimony, under the law, to the persons and in the quotas provided by law.

Legal devolution of inheritance takes place in the following cases:

- a) When *de cuius* did not leave a will;
- b) Although the deceased has drawn up a will, its provisions are not valid or it does not include and bind;
- c) Although a will has been drawn up, it only provides for the disinheritance of some legal heirs, without establishing legatees;
- d) By will the deceased disposed only of a part of his property;
- e) Although a will was drawn up by which he disposed of the entire succession table, the deceased had reserved heirs.

In these last two cases, the same inheritance will be divided both by law and by will, so that the legal inheritance will coexist with the testamentary one.

Delimitation between the terms “successor” – “heir” – “successive”

With regard to the word “successors” and the word “heirs”, in the new Civil Code they designate the same person: the one called to inherit, but the term heir is preferred.

The one of successor is sometimes used as a synonym of the term "heir", but it is also used with a distinct meaning, existing in the old Civil Code: that of heir who accepted the inheritance, in the situation of indivisibility with the other successors.

This meaning is used on several occasions or is deduced in different hypotheses. Thus, according to art. 901 para. (4) of the Civil Code, “the provisions (...) cannot be opposed (...) either by universal or universal successors (...)”. The same meaning results from a text that defines a term related to the one of successor.

By art. 1100 para. (2) of the Civil Code is defined, as an element of novelty, the successor as the person who meets the condition to be able to inherit, but has not yet exercised his right of option.

Thus, the successor is the person who meets the positive conditions regarding the succession capacity (existence at the date of opening the inheritance), the succession vocation (call to inheritance) and the negative condition of not being unworthy, regulated as a novelty as a general condition of the right to inheritance, and, in the case of testamentary inheritance, the negative condition of not having committed deeds that would attract the judicial revocation of the legatee, but which did not exercise the right of succession option, neither in the sense of accepting the inheritance, nor in the sense of renouncing the inheritance.

After exercising the right of succession option, the successor may become heir (depending on the result of the application of the rules of legal and testamentary devolution) or is a waiver.

A fortiori, he will become his successor when he accepts the inheritance.

The successor therefore has a broad meaning, designating any person who has accepted the inheritance, without concern for its source, law or will.

Instead, restrictively, the term heir is used to designate the person who is called by law to inherit, and in the case of testamentary devolution the term legatees is used.

Each of them, after accepting the inheritance, can be appointed with the term of successor when, in this phase of the application of the inheritance rules (inheritance transmission and sharing), they are no longer interested in what their right comes from (Văduva 2012, 12-13).

Persons who have the right of succession option

The right of option belongs to the person called to inherit under the law or the will of the deceased, namely to persons with a legal or testamentary succession vocation.

Thus, within the legal inheritance, the right of succession option belongs to the legal heirs who have a general vocation to inherit, and not only to those who have a concrete vocation to inherit; therefore, the person called to inherit under the law is concerned, and not the person who actually collects part of the legal inheritance, which means that the right of succession belongs both to the successors summoned first to inheritance (in preferred rank) and to the subsequent successors.

It does not mean that all those who have accepted will receive the inheritance, but the rules of legal succession will apply.

Within the testamentary inheritance, the right of succession option belongs to the legatees, the legal norm referring also to the persons called to inheritance based on the will of the deceased, namely to the persons who have a vocation to inherit based on the deceased's will, regardless of whether they are universal legatees, universal or private because it does not distinguish or exclude a certain category of legatees, on the principle that no one can be forced to accept a legacy that belongs to him.

General principles of legal devolution of inheritance

Article 964 of the Civil Code. provides that:

(1) Relatives of the deceased shall inherit in the following order:

- a) First class: descendants;
- b) Second class: privileged ascendants and privileged collaterals;
- c) Third class: ordinary ascendants;
- d) Fourth class: ordinary collaterals.

(2) If, following the disinheritance, the relatives of the deceased from the nearest class cannot collect the entire inheritance, then the remaining part is attributed to the relatives from the subsequent class who meet the conditions to inherit.

(3) Within each class, the relatives of the closest degree with the deceased remove from the inheritance the relatives of more distant degree, except for the cases for which the law provides otherwise.

(4) Between the relatives of the same class and of the same degree, the inheritance is divided equally, unless the law provides otherwise.

Thus, the rather wide scope of the persons to whom the legislator recognizes a general succession vocation to inheritance determines the establishment of an order of calling to inheritance, in order to establish the effective succession vocation.

This order is governed by three principles:

The principle of calling for inheritance in the order of the classes of heirs;

The principle of proximity of the degree of kinship between the heirs of the same class;

The principle of equality between relatives of the same class and the same degree.

The element of novelty is given by the legislator's option to introduce these principles, created by the specialized literature (Eliescu 1966, 87).

I. The principle of calling for inheritance in the order of classes of heirs

Also known as the principle of class priority, this principle expresses the rule of law according to which the classes of heirs are called to collect the succession patrimony in a certain order established by the Civil Code.

The concept of class of heirs means a category of relatives with a general legal succession vocation which, collectively, excludes or is excluded from another category (Deak 2002, 73-74), even if the relatives in the excluded category would be of kinship closer to the deceased than relatives in the called category (e.g., nephew of the deceased's son, second degree relative, excludes from the inheritance the deceased's parents, first degree relatives) (Macovei and Dobrila 2014, 1084-1090).

The class of heirs brings together a category of relatives of the deceased.

Therefore, the reunion of some people in a class of heirs is based on the blood connection.

Blood kinship is assimilated by law to civil kinship - resulting from the adoption concluded under the conditions provided by law - and kinship resulting from medically assisted human reproduction with a third donor.

According to the legal distinction operated according to the source of kinship, it is natural, when it has as its source the blood connection between the relatives, and civil, when it results from the adoption approved by a final court decision.

Natural kinship, either in a straight line - based on the descent of a person from another person, or in a collateral line - based on the fact that several people have a common ancestor, has the same source, namely parentage.

The fact that the filiation is from marriage or out of wedlock, but established according to the law, is not relevant from the point of view of the existence of natural kinship; likewise, no distinction is made as to whether the person was born by natural conception or by a reproductive medical procedure with a third donor.

Civil kinship, unlike the natural one, is not a given, an objective connection but, rather, a fiction of the law (Deleanu 2005, 246) built on the legal operation of adoption (Esme 2014, 491-495). Civil kinship has the potential for amplitude of natural kinship, in the sense that once the

adoption has been finally approved, the kinship is rearranged both in a straight line and in a collateral line.

The distinction between the natural and the civil kinship is interesting from the point of view of the way of establishing the kinship.

It is important to note that whenever the law provides legal effects arising from the relationship, they have the same content regardless of the source of the relationship.

Straight kinship unites people who descend from each other, either directly (children-parents) or in a medium way (grandchildren-grandparents) and can be "carried out" in an ascending sense, ie ascending (for example, from great-grandchild to great-grandfather), or in descending sense, descendant (from great-grandfather to great-grandson).

Collateral kinship is the connection between persons who, without descending from one another, have a common ancestor, as is the case with the brethren.

Thus, this principle implicitly introduces a new technical-legal means of establishing the order of preference between the different categories of relatives (according to the degree of kinship);

It should be noted that the four classes of heirs regulated in the previous civil code are maintained, establishing the order in which they come to succession:

- *Class I*, also called the class of descendants, consisting of all the descendants of the deceased, without limit in degree (children, grandchildren, great-grandchildren etc.);

- *The second class*, also called the class of privileged ascendants and privileged collaterals, consisting of the parents of the deceased, his brothers and sisters, together with their descendants up to and including the fourth degree (nephews of brothers, great-grandchildren of brothers);

- *The third class*, also called the class of ordinary ascendants, consisting of grandparents, great-grandparents etc. of the deceased, without limit in degree;

- *The fourth class* also called the class of ordinary collaterals, consisting of the deceased's uncles and aunts, his primary cousins, the brothers and sisters of the deceased's grandparents.

For example, first-class relatives, who want and can inherit, remove those in the other classes; second-class relatives inherit only if there are no first-class relatives or they will not (are renouncing) or cannot (are unworthy) to inherit.

In principle, a relative belongs to a single class, but, as an exception, it is possible that the relationship is double and the person belongs to two classes, such as the situation of the child born from the marriage between the grandchild of the deceased and the nephew of the deceased's brother, who will be part of the first class as the deceased's great-grandson and of the second class as the nephew of the deceased and who, in this case, will be able to opt for one of the two qualities.

The differentiation of the relatives belonging to the same class of heirs is made with the help of the degree of kinship.

These represent the distance between two relatives, measured on the line of kinship, by the number of births.

The degree of kinship in a straight line can be explained by the fact that the measure of the proximity of kinship between two people is given by the number of births, in other words by the number of generations that separate two people.

Thus, according to the legal exemplification from art. 406 para. (3) lit. a) NCC, children and parents are first degree relatives, grandchildren and grandparents are second degree relatives.

The degree of kinship in collateral line between two persons is determined starting from the first, ascending to the common author with the second counting each birth (generation), then descending from the common ascendant and continuing the counting of births to the second person, who was interested in the degree of collateral kinship of the person from whom it was started.

Thus, the brothers are second-degree relatives, because, starting from one of them to the common author (the father) there is a birth; descending from the common author to the second brother, there is another birth.

We mention that the collateral kinship starts from the second degree and only the collateral relatives of the second or fourth grades have a vocation to inherit.

Exceptions*A) The surviving spouse of the deceased*

He is not part of any class of legal heirs, as he is not related to the deceased.

The legislator recognized to the surviving spouse a right of legal inheritance, regardless of the class of legal heirs with which he comes in competition; therefore, it does not exclude and is not excluded by any class of heirs.

B) The call to inherit two classes of heirs at the same time

The hypothesis presupposes the disinheritance of an entire class of legal heirs, who, however, having the quality of reserved heirs, will still collect, as a reserve, a part of the succession patrimony, even against his will.

For example, if all the descendants of the deceased are disinherited by the will left by *de cuius*, then they will only collect the legal reserve, the available quota going to the relatives from the second class of legal heirs.

However, since an inheritance has taken place, it is not possible for the ex-heir to collect the entire inheritance: he will either be entitled to the reserve, if he is a reserve heir, or he will be fully ex-inherited if he is not a reserve heir, and the only situation in which we can speak of the concomitant coming to inheritance of two classes of heirs is when reserved heirs have been disinherited, who will collect the legal reserve and will come to inheritance together with the subsequent class (Macovei and Dobrila 2014, 1084-1090).

II. The principle of proximity of the degree of kinship between the heirs of the same class

The principle of proximity of the degree of kinship between the heirs of the same class expresses the rule of law according to which within the same class of legal heirs, the closest relatives with the deceased remove from the inheritance the relatives of more distant rank.

For example, the children of the deceased, as first-degree relatives, remove from the inheritance the grandchildren of the deceased, who are second-degree relatives.

Thus, the concrete vocation to inheritance depends on the closeness of the degree of kinship to the one who leaves the inheritance

Exceptions*A) Mixed class of privileged ascendants and privileged collaterals*

In the second grade, the parents of the deceased, although they are first-degree relatives, do not remove from the inheritance the brothers or sisters of the deceased, who are second-degree relatives, nor the descendants of siblings (grandchildren of brother, brother's great-grandchildren), who are third or fourth degree relatives.

Thus, certain predetermined quotas are provided, the same as in the previous civil code: if only one parent comes to the inheritance, he will collect a quarter of the inheritance, and the privileged collaterals, regardless of their number, will collect three quarters, although in doctrine (Macovei and Cadariu 2005, 76-77) it was proposed as a fair share of half even if there is only one parent competing with the privileged collaterals, and if two parents inherit, they will collect half together, the other half going to the privileged collaterals, regardless of their number, noting that when *de cuius* has been adopted with limited effects, the share of 1/2 will be divided equally between the adopter (s) and the natural parents, regardless of whether they are two, three or four.

The members of the second class of heirs will not impute these values on the entire inheritance except in three situations:

- When competing with the surviving spouse;
- When the first class heirs are disinherited by collecting only the reserve;
- When there is a competition between the two situations.

B) Succession representation

By succession representation, a legal heir of a more distant rank, called a representative, ascends, by virtue of the law, to the rights of his ascendant, called a representative, to collect the part

of the inheritance that would have been due to him if he had not been unworthy. to the deceased or deceased on the date of opening the inheritance.

The institution of succession representation allows a legal heir of a more distant rank (called representative) to acquire the inheritance rights of his ascendant (called represented) unworthy or deceased prior to the opening of the inheritance.

The succession representation creates for the representative the possibility to collect the part of the inheritance that would have belonged to the representative if he had not committed the act of indignity or if he had been alive at the date of opening the succession.

Traditionally, it is considered that the application of the principle of proximity of degree and equality between relatives of the same class and of the same degree in determining the concrete vocation can lead to unfair consequences, given the case of *de cuius* has two sons, one of whom predecessor, and his children (second degree relatives) would be removed from the inheritance by their uncle, first degree relative, or if he has two children, both of whom are predecessors, one of whom has a child and the other five, and the succession would be divided equally between them, on the ends (1/6 each).

In both cases, the removal of the consequences of an unforeseen chronology of deaths (children before the parents) and the fulfilment of family obligations to the descendants considered not in isolation, but through the lines of descent - both his offspring children and future generations - are possible through the institution of representation (Grimaldi 2001, 135-136).

As a novelty, NCC extends the application of the representation in favour of the lines of descent of the heir which, by its own decision, also affects the succession rights of its descendants: it is about indignity; unfortunately, the effects of representation do not occur even in the case of renunciation of inheritance.

Although in nominal terms the institution under debate resembles the institution of representation under common law, the two institutions regulate completely different legal issues.

In common law, representation, whether legal or conventional, considers the conclusion by the representative of legal acts in the name and on behalf of the representative, while in inheritance law, representation is a benefit of the law (a succession subrogation) which regulates the conditions under which the inheritance will not be divided by heads, but by stems.

Article 966 of the Civil Code. regulates the scope of this institution, so that, in par. 1 states that “only the descendants of the children of the deceased and the descendants of the deceased's siblings may inherit by inheritance”, and paragraph 2 states that “the representation operates in all cases, without distinguishing how the representatives children of the deceased and descendants of siblings of the deceased) are relatives of the same degree or of different degrees in relation to the deceased, if they meet the general conditions of inheritance”.

According to the provisions of par. (1), the succession representation is admitted in the case of legal inheritance, regarding the class I and only partially regarding the class II, only regarding the category of privileged collaterals.

Given the exceptional nature of the rules governing this legal institution, the extension of the scope of succession representation is not allowed.

Therefore, neither the parents of the deceased, nor his relatives from the third and fourth classes of legal heirs, nor the surviving spouse, nor the rules of representation in the matter of testamentary devolution can inherit by representation.

In a direct descending line, the succession representation can operate indefinitely.

This means that in all cases where the conditions of representation will be met, not only the grandchildren of the deceased will be able to come to the succession through this institution, but also his great-grandchildren, great-grandchildren etc.

In collateral line, the succession representation cannot extend to infinity, but only up to and including the fourth degree (great-grandson of the brother); this is because the conditions of representation are required to be fulfilled for each generation, and the legal succession vocation of the relatives in collateral line is limited to the fourth degree inclusive.

Therefore, on the collateral line, only nephews of siblings and great-grandchildren of siblings can inherit by representation.

Conditions

1. Conditions regarding the representative

In para. (1) of art. 967 of the Civil Code, two hypotheses are identified that may affect, in the sense of loss, the right of inheritance of a successor and that generate the application of the succession representation.

The first of the situations is external to the will of the successor and refers to the lack of ability to inherit, an expression that happily covers both the hypothesis of the predecessor and that of the Comorians, in the sense of the need to respect the condition of the predecessor (Macovei 2006, 125).

The other situation is directly related to the actions of the heir, referring to indignity, legal or judicial.

The last condition is introduced as a novelty in our legislation, by capitalizing on the strictly personal consequences that indignity must have.

The new institution of representation renounces the condition of the existence of a useful place, considering that even the unworthy in life at the date of opening the succession is represented.

2. Conditions regarding the representative

In order to be able to come by representation to his *de cuius* succession, the representative must have the ability to inherit it, namely: a) the representative must have succession capacity; b) the representative must have his own general legal succession vocation to his *de cuius* inheritance; c) the representative has not given up his *de cuius* inheritance.

Regarding the acceptance of the inheritance by the representative, necessary for the fruition of the representation, we notice that the representative can often be in difficult situations due to the intervention, finding or declaration of indignity of the representative after the date of opening the succession.

3. Conditions regarding the relationship between the representative and the representative

Since the fulfilment by the representative of the conditions of the right of legal inheritance is made exclusively by reference to the person whose inheritance is in question, the indignity of the representative towards the represented or the renunciation of the representative to the inheritance left by the represented is irrelevant. On the other hand, it is obvious that, whether the representation operates in a direct or collateral line, the representative must be a descendant of the representative.

The general effect of succession representation

In cases where the succession representation operates, the inheritance is divided by the stem.

The strain means:

- Within the first class, the first degree descendant who collects the inheritance or is represented in the inheritance;
- Within the second class, the privileged collateral of the second degree that collects the inheritance or is represented at the inheritance.

If the same stem has produced several branches, within each branch the subdivision is also made on the stem, the part due to the descendants of the same degree from the same branch being divided equally among them.

The particular effect of succession representation

The children of the unworthy conceived before the opening of the inheritance from which the unworthy was excluded will report to the latter's inheritance the goods they inherited by representing the unworthy, if they come to his inheritance in competition with his other children, conceived after the opening of the inheritance at which the unworthy was removed.

The report is made only in the case and to the extent that the value of the goods received by representing the unworthy has exceeded the value of the succession liability that the representative had to bear as a result of the representation.

Reporting obligation

The legislator's desire to preserve the equality of the heirs, not in the sense of avoiding disadvantage, but, this time, of privilege, extends in the person of the representatives until the moment when they will debate the succession of the representative, if the reason for the representation is indignity.

Thus, if children are born to the unworthy and after the opening of his succession *de cuius* it is obvious that these descendants are disadvantaged compared to those in whose person the representation operated, and to restore equality NCC provides the latter's obligation to report to debate the succession of the unworthy all goods received under the representation.

For the existence of the reporting obligation, the birth of the unworthy children must be placed after the thirteenth day from the date of opening the succession and, in addition, the reporting obligation will only concern the inherited net assets (Macovei and Dobrilă 2014, 1084-1090).

This report will be made by equivalent, according to the rules of art. 1146 et seq. NCC.

III The principle of equality between relatives of the same class and of the same degree

The principle of equality between relatives of the same class and of the same degree expresses the rule of law according to which the relatives of the same class of legal heirs and with the same degree of kinship in relation to the deceased divide the inheritance equally, by heads.

For example, if three first-degree descendants inherit, the inheritance is divided into three equal parts, or if two good brothers come to inherit, each will reap half.

This equality does not support individual exceptions in terms of sex, age, birth order, adoption etc.

Exceptions

Dividing into stems

If relatives of the same rank inherit by succession, the division is not made on the heads, equally, but according to the number of stems.

Dividing by lines

If several privileged collaterals come from the inheritance who come from different parents (good brothers, uterine brothers or consanguineous brothers), the division is not made on the ends, equally, but is done first on the lines: the paternal line will take half of the share due to the privileged collaterals, and the maternal line will collect the other half.

The half corresponding to the paternal line will be divided equally between the siblings, and the half corresponding to the maternal line will be divided equally between the uterine siblings.

Good brothers (those who are brothers with the deceased after both father and mother) benefit from the share on both lines (the benefit of the double bond).

If the conditions of succession representation are met, the lines will be divided into stems, and then the quota corresponding to each stem will be divided into heads.

Conclusions

Both in the case of the descendants of the children of the deceased, and in collateral line, the representation is allowed in all cases, not only when the children (brothers/sisters) and the descendants of an unworthy, predeceased child (brother/sister) come to the deceased's inheritance, but also when the succession is collected by his descendants other than his children (siblings), without distinguishing according to whether or not these descendants are of the same degree.

For example, suppose that *de cuius* had three sons (C1, C2 and C3), the first son having two children (N1 and N2), and the second and third son having only one child (N3, respectively N4). If at the date of his death *de cuius* C1 is unworthy, C2 renounces, and C3 predecessor, if the

conditions of succession representation are met, it will operate, even if the grandchildren could also inherit in their own name.

In this way, favoring the entity of the strain to the detriment of the individualities that compose it, the representation finds its plenary justification as an exception not only from the principle of proximity of the degree, but especially from the principle of equality of heirs of the same class and degree.

However, given that the new conditions that must be met by the representative in order to operate the representation cover several situations in which a relative does not materialize his kinship with *de cuius* in order to inherit it, we can conclude that there is only one relative condition to the person of the representative, namely the absence of resignation, doubled by the existence of a vacancy in the order of the relatives with concrete succession vocation of *de cuius*, which cannot be occupied by its holder.

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From *Homo Oeconomicus* to *Homo Praeventicus*

Julia M. Puaschunder^{1,2}

¹The New School, Parsons School of Design, Department of Economics, 6 East 16th Street, 9th floor 89, New York, NY 10003, USA, Julia.Puaschunder@newschool.edu, T 001 212 229 5700, F 001 212 229 5724, www.juliampuaschunder.com

²Columbia University, Graduate School of Arts and Sciences, Julia.Puaschunder@columbia.edu, <http://blogs.cuit.columbia.edu/jmp2265>

ABSTRACT: Standard economic models primarily captured human beings to be rational utility maximizers in the *homo oeconomicus* model. Behavioral economics addressed human decision making fallibility in a wide range of studies including laboratory and field experiments as well as big data. The currently ongoing COVID-19 crisis now underlines the importance of a healthy work environment. The medicine of the future is believed to prevent diseases instead of just treating their consequences. There is an expected shift from modern medicine's focus on acute treatment to address the inherently-underlying preventive measures that diseases would have a more favorable trajectory or are even avoidable at all. The *homo praeventicus* model may focus on preventing diseases and working in advance on favorable immune conditions that avert negative outbreaks of pandemics or determine a healthier state when falling sick. The *homo oeconomicus* offers as a remedy to chronic diseases and a reduction of a global cost escalation for medical care. Because we have to live with environmental burdens on our health, a change of direction towards prevention is recommended and the implementation of *homo praeventicus* models envisioned.

KEYWORDS: AI, Artificial Intelligence, Coronavirus, COVID-19, Discounting, Healthcare, *Homo oeconomicus*, *Homo praeventicus*, Medical care, Precautionary principle, Prevention, Trajectory

Introduction

The most recent decade featured a data revolution in the healthcare sector in screening, monitoring and coordination of aid (Puaschunder 2019b). Big data analytics have revolutionized the medical profession (Puaschunder 2019f). The health sector relies on Artificial Intelligence (AI) and robotics as never before (Puaschunder 2019c). 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 2019f). Together with big data driven medical insights, preventive medicine has leveraged into unprecedented opportunities, precision and sophistication (Puaschunder forthcoming b).

Preventive medicine integrates the big picture by including the genetic predispositions, history, chronology and environmental influences (Salzburg Declaration 2020). Preventive medical care thereby tries to evade diseases and cure chronic diseases in the context of a systems biology perspective (Salzburg Declaration 2020). Preventive medicine is based on a precautionary principle to promote healthy lifestyle rather than curing with traditional healing methods afterwards (Ecowellness 2020). Preventive medicine includes multi-faceted benefits of psychosomatic medicine and leaves aside short-term or unbalanced profit-maximization calculations of ordinary emergency healthcare (Ecowellness 2020; Salzburg Declaration 2020).

COVID-19

In the novel Coronavirus crisis, prevention and general, holistic medicine determine whether COVID-19 puts patients on a severe or just mild symptom trajectory (CDC Center for Disease Control and

Prevention 2020). Obesity, but also the general status of the immune system are decisive in whether the Coronavirus becomes a danger for the individual (Ecowellness 2020; Salzburg Declaration 2020). The COVID-19 crisis is therefore an important accelerator for necessary, fundamental changes in the health system, which also results in economic, philosophical and ethical demands on politics. Every year, millions of people die of viruses, cancer, diabetes, Alzheimer's, dementia, pathological obesity and mental illnesses and this number is increasing worldwide (Sachs et al. 2020). Obesity is already classified as a pandemic by the WHO and has been recognized as one of the causes of reduced immunity and recently also as a risk factor for COVID-19 diseases. Prevention is currently given top priority in the population planning and financed by a respectively precautionary healthcare system. The self-monitoring of the state of health and the comprehensive prevention in a holistic lifestyle according to the German Prevention Act of 2015 of the German Federal Government are today's competitive advantages in all the economies around the world that are affected by the pandemic and health crisis (Salzburg Declaration 2020).

The time is therefore ripe for focus on prevention. A shift from *homo oeconomicus* as the utility maximizer, which behavioral economics proved to be hindered by discounting fallibilities is therefore transitioned to a *homo praeventicus* model. The *homo oeconomicus* model attributed human beings fully capable of calculating and maximizing utility at a constant basis. Behavioral Economics revolutionized decision-making theory by showing in an impressive line of research how individuals constantly deviate from rationality. Behavioral economists have recently started to nudge—and most recently wink—people into favorable decision outcomes. With the COVID-19 pandemic underlining the importance of hygiene and preventive healthcare, the time is ripe to shift to *homo praeventicus* grounded on behavioral insights how to coordinate more effectively on preventive healthcare.

Homo praeventicus

Homo praeventicus addressed the novel attention to precautionary principle based medical care that focuses on prevention rather than emergency medicine. The time is now for preventive medical care due to three currently ongoing trends (1) Big data digitalization revolution and computational power hold unprecedented opportunities to reap the benefits from prevention; (2) The currently ongoing novel Coronavirus crisis accelerates the call for prevention as a lifestyle that builds a stable immune system long-term to shield from diseases outbreaks and unfavorable trajectories; (3) The ecologic crisis around climate change calls for attention to an ecologic lifestyle of which preventive medical care and a whole-roundedly ecological lifestyle can be supportive given the ecological costs of an unhealthy diet and energy consumption of emergency care.

Big data digitalization and computational power hold unprecedented scientific and financial opportunities (Puaschunder 2020c). Most innovative novel big data insights allow for crowd understanding, trends prediction and preventive healthcare control, e.g. in genetic testing such as 278 tests via blood in the US, egg freezing hand-picked most prosperous genetic material, 23andme insights (Puaschunder 2018a, 2019g).

What is new these days is the entry of artificial intelligence (AI), algorithms and large data sets into the medical field, which raise prevention to a new level. As early as November 2019, experts identified new technologies such as robots, AI, algorithms and large data-generated findings as helpful innovations in the medical sector (Puaschunder 2019e, f). Customized data-driven preventive medicine is considered to be one of the most groundbreaking achievements of today's medicine (Puaschunder 2019f). Efficiency, precision and better quality work are highlighted as advantages of AI, robots and big data in healthcare. Decentralized preventive medicine and telemedicine enable personalized preventive care that makes health more accessible to large parts of the population (Puaschunder 2019f). The power of big data aids our understanding

of group behavior and trend predictions as well as preventive health care – such as through genetic predisposition and origin tests in the USA and handpicked genetic material selection. Health apps target at preventing COVID. Bluetooth-tracking of medical devices helps overcome bottlenecks and fraud while protecting privacy. Telemedicine cures remotely. Future global digi-healthcare innovations are likely to come from corruption-free AI pioneering countries that tend to have better general medical care (Puaschunder & Beerbaum 2020). Internet connectivity and AI-human-compatibility are growing competitive advantages (Puaschunder 2020d).

Puaschunder (forthcoming b) compiled three indices in order to compare international differences in digitization, economic potential, anti-corruption and access to good public medical care. Different aspects and combinations of artificial intelligence and economic growth, freedom from corruption and public health care showed that digitized connectivity as a proxy for artificial intelligence goes hand in hand with freedom from corruption, which in turn is correlated with good medical care (Puaschunder forthcoming b). These nations and especially Europe in an international comparison have the best prerequisites for a leadership role in global pandemic containment and risk management through new technologies in medicine but also to be able to offer predictive prevention excellence to the entire world (Puaschunder forthcoming b).

In the healthcare sector, those countries hold a prevention medical care advantage that have a historically-grown wealth of data and a homogenous population. Technological innovation leaders can pick up technological advancements around the world quickly and efficiently. Precautionary standards in releasing drugs evolve in territories with relative independence 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 (Puaschunder 2018a, 2020a, forthcoming a). All these novel opportunities and insights derived from big data, however, hold challenging ethical questions, among which privacy, stigmatization and discrimination account for the most pressing ones (Puaschunder 2017b, c, d, e).

As the **novel Coronavirus has drawn attention to prevention** (Piper 2020; Puaschunder 2019b). With the novel Coronavirus (COVID-19) spreading around the world from the beginning of 2020 on, calls are made that the medicine of the future should prevent diseases instead of just treating their consequences. In the novel Coronavirus crisis, prevention and general, holistic medicine determine whether COVID-19 puts patients on a severe or just mild symptom trajectory. Obesity, but also the general status of the immune system are decisive in whether the Coronavirus becomes a danger for the individual. The COVID-19 crisis is therefore an important accelerator for necessary, fundamental changes in the health system, which also results in ecological impacts as a healthy diet is usually less carbon intensive.

With the COVID-19 pandemic, the connection between preventive medicine, general health and prevalence has gained unprecedented momentum. Due to a weakened immune system being related to a severe disease trajectory, preventive medical care has become more important for emergency medicine. In the novel Coronavirus crisis, prevention and general, holistic medicine determine whether COVID-19 puts patients on a severe or just mild symptom trajectory. Obesity, but also the general status of the immune system are decisive in whether the Coronavirus becomes

a danger for the individual. In light of the heightened health risks of COVID-19, employers will naturally select healthier workers that may have to positive externality effect of an overall more productive labor at work. Already now elder and chronic patients' passing and vulnerabilities risks change labor market demand towards favoring young, healthier and Corona-survivors, who may benefit from a natural immunity, and being more virus-resistant (Puaschunder & Gelter 2020).

As for outside working conditions, those corporations that are placed in benevolent health-promoting territories will have a competitive advantage and gain in terms of labor quality. Countries around the world are currently paying attention to preventive medical care in the wake of pandemic outbreak monitoring. Those nations that can offer technological advancements to monitor pandemic outbreaks but also medicine of the future that helps prevent diseases instead of just treating their consequences will produce positive labor advantages (Salzburg Declaration 2020).

Ecologic system change may occur that benefits from healthcare prevention. As a healthy diet is also ecologically friendlier in comparison to meat-based nutrition, the *homo praeventicus* model also takes into account the health of our planet. The modern epidemics and the climate crisis are mainly caused by human actions based on discounting fallibility. The neglect of healthcare prevention goes hand in hand with an ecologically unfavorable lifestyle of meat consumption. Instead of just curing symptoms and practicing epidemic hygiene, causal control could now stress preventive medical care based on a healthy lifestyle that is also ecologically sound (Puaschunder 2020b).

In most recent decades, affluent people in high-income countries have defined environmental conscientiousness as luxury good. High-end consumers around the world then have proven interest in goods that do not cause CO₂ emissions (Puaschunder 2017a). They travel and shop environmentally-conscientious with respect for the wider community and are investing to fund social and environmental causes in their local communities. Behavioral insight – hence the behavioral economics application onto global governance – proves in many powerful laboratory and field experiments the power of behavioral nudges and winks on consumer choices with less money incentives (Puaschunder 2019d). Nudges, the behavioral means to change people's choices based on their emotions, status and other environmental and social conditions, have proven to be powerful and easily-implementable sources to educate and change people's behavior without direct enforcement (Puaschunder forthcoming a, b).

Governments may not be trapped in primarily focusing on locking-down the population as crisis management during a pandemic and leave them alone in quarantine after positive Coronavirus tests, but also take measures that can guarantee continued health and safe employment – including those of the companies (Puaschunder & Gelter 2020). Preventive medical care could thereby become the central theme of business, ecology and politics as we redefine our society in the post-COVID-19 world. Return-on-investment and sales for GDP as a rating of success should also integrate the long-term state of the overall health of the workforce and environmental conditions of the nation. In this light, the "*homo oeconomicus*" is outdated by the "*homo praeventicus*" in all aspects the innovation-based growth as well as for ecological harmony.

Discussion

Today we witness three trends that result in a large-scale system change towards preventive self-care. Digitalization, pandemic outbreak and ecological limits instigate system change from an emergency and restorative medicine focus towards preventive medical care. While medical care was dominated by industries that aim to maximize profits in the past, the current trends of digitalization, pandemic outbreak and climate stabilization demands may steer the world towards humanity in prevention rather than profit maximization (Puaschunder 2020b). The emergency-based medical care that only cures when diseases break out thereby primarily is obsessed with symptoms but not pro-actively tackling causes, may shift towards care in advance and protection from causes, not only becoming

acting in curing symptoms that are more lucrative. Financial beneficiaries of wrong incentivization mechanisms have led to a continuous cost increase for a healthy life in the past. The COVID-19 crisis may serve as a wake-up call for attention to promoting healthy lifestyles upfront. Leaving aside short-term or unbalanced profit maximization calculations when it comes to healthcare, we may not only tap into the incredibly new resources stemming from big data digitalization techniques, but future research may also address the best possible implementation to evaluate and integrate traditional healing methods to prevent. All these endeavors may foster a future healthy life that is balanced within the ecological limits of our all common earth.

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Exploring Cognitive Functions of Demand through the Teachings of Abhidharma

Dilshani N Ranawaka¹, Rushan Ranawaka²

¹Centre for Poverty Analysis, Sri Lanka, dilshani@cepa.lk

²University of Colombo, Sri Lanka, rushan.thirdspace@gmail.com

ABSTRACT: Economics and Abhidharma (in-depth dharma teachings by the Buddha) rarely emerge together in interdisciplinary discussions due to the contradictory nature of the two disciplines. Economics is identified as the dismal science which attempts to understand how limited resources should be distributed in a way that satisfies unlimited wants so as to maximize satisfaction (utility) with demand being one of the core concepts. It is known that the demand occurs because of three reasons: willingness to buy, the ability to pay now, in the present. With the surfacing of neuroEconomics which looks at how thoughts and brain functions when making decisions, Abhidharma can be very useful in providing insights as to how thoughts functions. According to Abhidharma, “greed” is the nucleus when demand is looked in a micro-level. *Citta* (Consciousness), also known as thoughts and *chaitasika*, identified as the thought processes in Abhidharma, can be used to guide and provide a different outlook to the concept of ‘demand’ in Economics. This paper hopes to pursue the knowledge of eight folds in *lobha* (greed); one of the theoretical elements of Abhidharma in assessing how demand in Economics occurs.

KEYWORDS: Abhidharma, Demand, NeuroEconomics, Greed, Micro-analysis

Introduction

Economics is a social science known for understanding how resources should be allocated in a world where wants are unlimited and resources needed to satisfy these wants are limited. Economics focuses on how these resources are efficiently allocated so as to maximize utility. In the recent decade, social scientists have attempted to merge and engage more in interdisciplinary analysis especially in the field of Economics. Psychology and Economics merged into behavioural Economics, complex systems and Economics merged into complexity Economics are examples and such cross-overs are gaining much interest among academia.

However, Buddhist Economics, economic analysis where Buddhist philosophy is used to critically evaluate economic concepts, has not evolved beyond Schumacher’s “Small is Beautiful”. In this paper, an attempt is made to explore the concept of demand through the vision of deepest teachings of the Buddha – known as Abhidharma.

Brief introduction about Abhidharma

The Sanskrit term Abhidharma means “concerning (abhi) the teachings (dharma)” (Thera 1987). In the Buddhist exegetical tradition this term means “further” or “higher” teaching, and it refers both to the doctrinal investigations of the new scholastic movement and to the body of texts yielded by Abhidharma’s systematic exposition of Buddhist thought. Unlike the earlier Buddhist discourses that are colloquial in nature, the Abhidharma method presents the Buddha’s teachings in technical terms that are carefully defined to ensure analytical exactitude. In content, Abhidharma is distinctive in its efforts to provide the theoretical counterpart to the Buddhist practice of meditation and, more broadly, a systematic account of sentient experience. It does so by analyzing conscious experience. The Abhidharma mainly comprises of four parts.

Table 1. The Abhidharma parts

Category	Description
1) Citta (Consciousness)	Explained in a separate section
2) Cetasika (Mental states)	These are the 52 states that are associated with consciousness, that arise and perish together with consciousness, that have the same object and basis as consciousness, are known as Cetasika. There are four properties of Cetasika. (Thera N M, 1987) <ul style="list-style-type: none"> • Cetasika arises together with consciousness • Cetasika perishes together with consciousness • Has an identical objective with consciousness • Has a common basis with consciousness
3) Rupa (Matter)	Rupa is not matter as in the metaphysical substance of materialism. Instead, it means both materiality and sensibility – signifying, for example, a tactile object both as that object is made out of matter and that the object can be tactically sensed. In fact, rupa is more essentially defined by its amenability to being sensed than its being matter: just like everything else, it is defined in terms of its function, what it does, not what it is. As matter, rupa is traditionally analysed in two ways: as four primary elements and, 24 derived elements. (Thera N M, 1987)
4) Nirvana (Enlightenment)	One of the main ideas of Buddhism is that of rebirth. All suffering is caused due to rebirth. How do we escape the repeating cycle of birth and thereby cease all suffering? The answer is by attaining Nirvana. It is the equivalent of heaven in Buddhism. Nirvana is attained via destroying all of 10 sins which are known as fetters.

Citta or Consciousness

There are several ways that Citta is classified. However, these are not further explored here due to the word limitations. Therefore, we directly attempt to understand the four categories of Citta.

- 1) Kamavacara Citta – Consciousness pertaining to the Sensuous Sphere (54 Citta)
- 2) Rupavacara Citta – Consciousness pertaining to the Form Sphere (15 Citta)
- 3) Arupavacara Citta – Consciousness pertaining to the Formless Sphere (12 Citta)
- 4) Lokuttara Citta – Supramundane Consciousness (08 Citta)

Altogether summing up to 89 Cittas or types of Consciousness.

Kamavacara Citta

The 54 Kamavacara Citta can be divided into 3 main parts.

- 1) Kusala Citta (Moral Consciousness. 24 Cittas)
- 2) Akusala Citta (Immoral Consciousness. 12 Cittas)
- 3) Ahetuka Citta (Rootless Consciousness. 18 Cittas).

For this analysis, Akusala Citta is the most significant out of the 54 Kamavacara Cittas (Thero 2016).

Demand in Economics

Demand is an important concept in Economics which denotes the relationship between the quantity bought against the price of a particular commodity. However, it is known that such demand occurs when there exists “willingness” and the “ability” to buy (Samuelson 1973). The

“ability” highlights the monetary capacity while the “willingness” emphasizes the cognitive capacity in which the demand could occur. While Economics explores the monetary capacity in-depth, cognitive capacity is not mainstreamed in theory despite numerous authors seek to explore this subject in psychology and Economics. While psychology explores cognitive functions of choice theory, it is important to further explore what goes through a person’s mind when a demand occurs leading towards a micro-analysis.

The purpose of this paper is to explore the works of mind through the teachings of Abhidharma when demand occurs.

Discussion

According to Abhidhamma, wants and needs arise as a cause of unsatisfying “greed” in humans. Greed also known as Lobha consists of 8 folds (Thero 2016).

1) Unprompted, accompanied by pleasure and connected with wrong view

Example: Consider a case of someone pleurably stealing with the belief that “it’s okay to steal from rich people” or enjoying a meal pleurably with the belief that “this food is given to us by God” without being prompted by someone to do so.

2) Prompted, accompanied by pleasure and connected with the wrong view

Example: Consider a similar case as (1) of someone as above but being prompted by someone else to do so.

3) Unprompted, accompanied by pleasure and disconnected with the wrong view

Example: Consider someone eating a cake with pleasure without the belief that it was God-given.

4) Prompted, accompanied by pleasure and disconnected with the wrong view

Example: Consider someone stealing a pen with pleasure after being prompted by someone else to do so without the belief that it was God-given.

5) Unprompted, accompanied by indifference and connected with the wrong view

Example: Consider someone drinking alcohol without pleasure with the belief that it is God-given without being prompted to do so.

6) Prompted, accompanied by indifference and connected with the wrong view

Example: Consider the same case as (5) but after being prompted by someone else to drink alcohol.

7) Unprompted, accompanied by indifference and disconnected with the wrong view

Example: Consider a case of someone stealing without the belief about a God without being prompted by someone to do so and without being prompted to do so.

8) Prompted, accompanied by indifference and connected with the wrong view

Example: Consider the same case as (7) but after being prompted to do so.

Greediness can either be accompanied by pleasure or be accompanied by indifference.

This term is derived from “dis” which means to see, to perceive. It is translated as view, belief, opinion, etc. When qualified by “miccha” this means wrong view or wrong belief. The kind of belief that is referred here is that there is no result in wrong actions or belief of an almighty God.

Cittas can either be accompanied by or disconnected with wrong view.

As the term suggests, “Prompted” means an action induced by someone else whereas “Unprompted” means an action that is done without any external or internal inducement, or any premeditation.

Given these eight folds, we can highlight that feelings (accompanied pleasure or indifference), perception (view) and the influence (whether its oneself or someone else) are the roots for a demand to occur.

Synthesizing feelings, perception and influence into Economics of demand

A person would buy something assuming that its consumption would bring either happiness or indifference to the consumer. Consumption would bring a person happiness if this particular good is

something long-awaited like a buying a dream-fulfilling car as opposed to consuming the third and the fourth ice-cream in Economics understood as the diminishing marginal utility which would bring indifference to this particular consumption.

The perception that is being discussed here is philosophical and denies the utilitarian concept; that more consumption leads to more happiness and utility. This argument is brought forward by Schumacher (1973) in his book *Small is beautiful* and aligns with the Economics concept of gross domestic happiness which does not align with monetary and utilitarian values.

As mentioned above, Abhidharma brings in two kinds of influences; being prompted and unprompted. A demand could happen with another person's influence such as advertising or on his or her own accord. The ideology of demand creation is brought into account here.

Summary

The purpose of this paper was to bring in some concepts of Abhidharma to explain cognitive functions when demand occurs. Buddhist philosophy and Economics rarely could emerge as interdisciplinary given the contradiction between the two philosophies. Buddhist concepts dismiss the fact that more consumption brings more utility or more happiness while mainstream Economics emphasizes the utilitarian concept which states that more consumption brings in more happiness. While taken such stances in both disciplines, we attempt to explore the cognitive functions of when demand occurs through the lens of Buddha's teachings; Abhidharma also known as dharma in-depth. According to Abhidharma, Cittas (Consciousness) pertaining to demand is mainly greed. This is also identified as the driven factor for demand.

Given the eight folds of greed, we have identified that there exist three functions; feelings, perception and influence that goes through one's mind when demand occurs.

Demand occurs when a person is happy or indifferent about that particular demand. With such feelings comes the illusion that consuming or demanding more could bring in more happiness to a person and such instances are either influenced by another person or could arise due to one's own thoughts.

The paper seeks to merge two concepts and do a micro-analysis of a common concept; demand despite the contradictory opinions within the two philosophies which could pave the way towards further research between Abhidharma and Economics.

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The Importance of Negotiation in the Public Procurement Process

Janetta Sîrbu

Professor Ph.D., Faculty of Economics, Management Department, "Bogdan Vodă" University of Cluj-Napoca, Romania, sjanetta2002@yahoo.com

ABSTRACT: Negotiation has been and is one of the key elements when it comes to business success. The largest companies in the world were founded as a result of the abilities of their leaders to manage to find the optimal balance between personal goals and objectives, and at the same time, the respect and the knowledge to know when and how to relate to the negotiating partner. Negotiation is present in all areas of our lives, and trade negotiation is just an extended aspect of negotiation that already takes place at every moment, in different everyday situations. Negotiation is first and foremost a form of communication: negotiating means communicating in the hope of reaching an agreement. International trade negotiation is an organized process of communication between companies, which aim to gradually adapt their interests related to the object of negotiation in order to achieve a mutually acceptable business agreement, materialized in the international contract. In the process of applying the procedures for awarding public procurement contracts, the contracting authority, through the internal department specialized in awarding public procurement contracts, has a number of tasks, such as: elaboration of an annual public procurement program, elaboration of award documentation or the tender documentation, the fulfillment of the obligations regarding publicity, the application and completion of the award procedures, the constitution and keeping of the public procurement file.

KEYWORDS: negotiation, communication, negotiating partners, public procurement, contracts

Introduction

Almost every day, any of us is convinced or persuaded by someone. Each of us has a point of view or we have to exchange something with others. We negotiate with our boss the development of a project, with the supplier we can negotiate the conditions for concluding a contract, with the client the payment conditions. We can negotiate anytime, with anyone and anything. Negotiation is present in all aspects of our existence, in a multitude of forms, is carried out in a variety of fields and is equally known locally, nationally and internationally.

By negotiation we mean "any form of unarmed confrontation, through which two or more parties with contradictory but complementary interests and positions seek to reach a mutually advantageous arrangement, whose terms are not known from the beginning" (Volkema 1999, 194). In this confrontation, mainly and loyally, arguments and evidence are brought, pretensions and objections are formulated, concessions and compromises are made in order to avoid both the rupture of relations and the open conflict. "The agreement of the parties may be a simple verbal agreement, consolidated by a handshake, it may be a tacit consent, a letter of intent or a protocol, written in a hurry, it may be a convention or a contract, written in accordance with certain procedures and common customs, but it can also mean an armistice, a pact or an international treaty, drafted in compliance with special procedures and customs" (Churchman 1995, 57).

Negotiation "is a competitive process in which, starting from the basis of common interests, the parties seek to reach an agreement that, in parallel with the satisfaction of common interests, to ensure their own preponderant advantages. In essence, however, negotiation must lead to a consensus and not to a victory of one party over the other" (Hames 2011, 126). Thus, "all negotiating parties can win and none lose. But in the end, the negotiation has only one goal, that being to reach a common interest and to achieve collaboration between the parties. Each party will be more or less successful in the negotiation depending on the favorable clauses obtained in its favor, although in itself the completion of a negotiation even if concessions have been made can be considered a success, as long as there is something to be gained from the collaboration"

(Pistol 2014, 62). In this sense, negotiation is considered a dynamic process of adjusting different ideas and arguments, through which the parties with their own objectives, regardless of the field, discuss how to reach a consensus, based on mutual interest and on "a complex of processes planning, analysis and negotiations between two or more partners, in order to carry out transactions" (Van der Molen, Gramsbergen-Hoogland 2019, 203). Hence the importance of talks in a negotiation, which "represents a process of probing, exchange of views, a form of communication between partners to reach an agreement of will. The essential premise of the negotiation is to maintain the open nature of communication, ensuring a working climate and cooperation between the parties" (George 2018, 41).

Negotiation - a form of communication

Negotiation is a concentrated and interactive form of interpersonal communication, in which two or more parties in disagreement seek to reach an agreement that solves a common problem or achieves a common goal. Thus, negotiating means communicating in the hope of concluding an agreement in order to obtain the best possible result. Being an "organized process of communication between companies, the aim is the progressive adaptation of their interests related to the object of negotiation in order to achieve a mutually acceptable business agreement, materialized in concluding various contracts" (Whitaker, Austin 2001, 154). In this sense, the essential premise of the negotiations is to maintain the open character of the communication, to ensure a working climate and cooperation between the parties. Negotiation is inseparable from human communication and is inevitably based on dialogue.

"Negotiation allows the creation, maintenance and development of an interpersonal or social relationship, in general, as well as a business relationship, in particular. It should also be mentioned that negotiations do not always necessarily follow manifested results in the direction of an agreement. They are often made for their side effects such as: maintaining the contract, gaining time, preventing the deterioration of the conflictual situation. Apart from these, the negotiators' meetings can be seen as a potential channel for urgent communications in crisis situations" (Gulea 2015, 43). The absence of communication can be considered an alarming sign of the impossibility of conducting the negotiation; its presence is an indication of the chances that the negotiation will take place. At the same time, we must give sufficient security to the climate of discretion and sound gradual construction.

Thus, "discussions are the most common ways of transmitting verbal messages, which include leading and conducting meetings, speeches, sales of products and services, consulting employees, resolving complaints, conducting negotiation activities" (Candea, Candea 2018, 26). If we refer to the human interaction aspect of negotiation, we must consider other forms of interactions that take place between people. In this sense, "studies show that negotiation is correlated with situations such as solving problems, as well as situations of confrontation between people. For this reason, a human interaction can evolve on any of these coordinates - problem solving, pure confrontation or negotiation. The people involved will be the ones who will opt for one or the other of the possibilities" (Guasco, Robinson 2017, 131). Problem solving is a form of interaction in which the parties involved perceive their objectives related to a common problem as identical, by maintaining the open nature of communication, ensuring an optimal climate of work and cooperation between the parties.

As a process of interpersonal communication, "negotiation involves a series of particular aspects and characteristics, materialized in a set of initiatives, exchanges of messages, contracts and confrontations, respecting established rules and customs in a legal, cultural, political and economic environment" (Goldwich 2011, 87). Thus, "the negotiation is based on a process of interaction, adjustment and harmonization of the distinct interests of the parties, so that, beyond the competitive nature of the relations between the parties, the agreement will become mutually advantageous (Adler, Rodman, Du Pré 2017, 167). Based on "the concept of mutually beneficial agreement, the success of the negotiation can be defined, if each partner achieves a satisfactory

gain from his point of view and feels that the other is satisfied with the result” (Putman, Roloff 1997, 98). Therefore, the main aspects of a successful negotiation are: “different particular interests predominate, the final solution is imposed by the strongest party, the interaction of the parties is dominated by struggle, the power relationship between the parties is a central aspect in their interaction” (Shell 2016, 41).

In order to refer to the human interaction aspect of negotiation, we must also consider other forms of interactions that take place between people. In this sense, “studies show that negotiation is correlated with situations such as solving problems, as well as with situations of confrontation between people. For this reason, a human interaction can evolve on any of these coordinates - problem solving, pure confrontation or negotiation. The people involved will be the ones who will opt for one or the other of the possibilities” (Sistar, Ignat 2011, 87). The differences between the three types of interactions are great, and highlighting them helps us better understand the specifics of negotiation. Problem solving is a form of interaction in which the parties involved perceive their objectives regarding a common problem as identical. The joint project is dominated by consensus, and the parties involved are engaged in a rational process of finding the optimal solution. For this, they generate several possible solutions and, based on objective criteria, they choose the convenient one. Thus, the final result does not depend on the preference, priorities or objectives of each, but common interests predominate through by: “following certain methodologies, predominantly rational, the final solution is one that meets the criteria established initially, and there are no (or are not relevant) emotional aspects” (Rotaru 2018, 97).

Hence the importance of establishing a negotiation strategy that has the role of “anticipating certain developments in the negotiations and preparing in time for appropriate responses to support the position in the negotiation by establishing the overview, setting priorities (primary and secondary), choosing the means of action and the framework of the negotiation, identifying the solutions to withdraw or change the orientation during the negotiation” (Shell 2016, 156). This can be done depending on a number of factors, such as: “own resources, the situation of domination or dependence on the market, the situation in which the negotiation takes place, the possible actions of the partner, the personality of the negotiators, etc.” (Rivera-Batiz, Oliva 2013, 112).

Peculiarities of negotiation in the public procurement process in Romania

The negotiation aims to adjust the various ideas and arguments, through which the parties with their own objectives, regardless of the field, discuss to reach a consensus, based on mutual interest. In the public procurement process “ensuring the efficient use of public funds involves the application of the awarding procedure by the contracting authorities, respectively by using the competitive system so as to obtain a maximization of the desired result and the use of awarding criteria that reflect primarily the advantages of economic nature of the offers presented” (Chelaru 2016, 57).

The application of the procedures for awarding public procurement contracts in Romania is done by the National Authority for Regulation and Monitoring of Public Procurement which is coordinating this field. The contracting authority has the right to initiate the application of the award procedure only after the award documentation has been elaborated or, as the case may be, the competition documentation. Any situation for which there is no explicit regulation is interpreted in terms of the principles underlying the award of the public procurement contract. The award of the public procurement contract is done through a series of procedures, regulated by legislation, such as:

- a) open auction;
- b) restricted auction;
- c) competitive negotiation;
- d) competitive dialogue;
- e) partnership for innovation;

- f) negotiation without prior publication;
- g) competition of solutions;
- h) award procedure applicable in the case of social services and other specific services;
- i) simplified procedure (Law no. 98/2016, art. 7 (1) and art. 68 and Government Emergency Ordinance (GEO) of Romania no. 34/2006, art. 18 (1)).

The necessary information about the documentation for awarding the public procurement procedure are found in Law no. 98/2016 on Public Procurement and refers to:

- general information on the contracting authority;
- instructions regarding deadlines to be observed and formalities to be completed in connection with participation in the award procedure;
- if the minimum qualification requirements are requested, as well as the documents to be presented by the bidders/candidates for proving the fulfillment of the qualification and selection criteria;
- the specifications or the descriptive documentation, the latter being used in case of applying the competitive dialogue or negotiation procedure;
- instructions on how to prepare and present the technical and financial proposal;
- detailed and complete information regarding the award criterion applied for establishing the winning bid;
- instructions on how to use the remedies and information regarding the mandatory contractual clauses.

The contracting authority draws up the procurement file and the report of the award procedure for each awarded public procurement contract or framework agreement concluded, as well as for each dynamic procurement system launched. This report of the award procedure must include at least the following documents/information:

- a) "the name and address of the contracting authority, the object and value of the public procurement contract / framework agreement or of the dynamic procurement system;
- b) if applicable, the results of the qualification and/or selection process of the candidates / tenderers and / or the reduction of their number during the award procedure;
- c) reasons for rejecting an offer that has an unusually low price;
- d) the name of the bidder declared the winner and the reasons for which his bid was designated the winner;
- e) to the extent that they are known, the party/parties of the public procurement contract / framework agreement that the successful tenderer intends to subcontract to third parties and the name of the subcontractors;
- f) justification of the reasons regarding the choice of the award procedure, in case of applying the procedures of competitive negotiation, competitive dialogue or negotiation without prior publication of a participation notice;
- g) justification of the reasons for which the contracting authority decided to cancel the award procedure;
- h) where applicable, the reasons for which other means of communication than electronic means have been used for the submission of tenders;
- i) when applicable, the conflicts of interest identification and the measures taken in this regard" (Law no. 98/2016, art. 216 (2)).

The stages of the public procurement process specific to the entities of the Romanian Public Administration refer to:

- Public procurement planning
- Initiation and launch of the procedure
- Carrying out the procedure
- Completion of the procedure
- Contract administration.

For the **Public Procurement Planning stage**, the related activities are the following:

- Identifying needs and setting priorities
- Identifying the applicable legal provisions
- Market research, identification and risk assessment
- Estimating the value and choosing the procedure
- Preparation of the public procurement plan
- Obtaining approvals and initiating the procedure
- Establishing the schedule of the procedure.

These activities may be carried out by the contracting authority starting at any time from the first half of the year and for a period directly proportional to the degree of complexity of the object of the contract, provided that the procurement plan is integrated in the Investment Program, ie no later than July 15 of the previous year, when the draft budget for the following year is sent, as well as the estimates for the next 3 years.

For the second stage - **Initiation and launch of the procedure** - the activities presented require compliance with certain terms, as follows:

- The elaboration and transmission of the intention notice requires a maximum of 3 days (being influenced by the size and organizational structure of the contracting authority)
- The publication of the notice of intent is made within a maximum of 12 days from the date of sending the text of the notice to the Official Gazette
- Preparation of documentation for selection has a duration established depending on the nature and complexity of the public procurement contract
- The appointment of the evaluation commission is made in maximum 3 days depending on the size, the organizational structure and the Regulation of organization and functioning of the contracting authority
- The elaboration and transmission of the participation announcement is done in maximum 3 days depending on the size and organizational structure of the contracting authority
- The publication of the participation announcement is made in maximum 12 days from the date of sending the text to the Official Gazette
- The transmission of the documentation for the elaboration and presentation of the preliminary offer varies depending on: the award procedure to be applied, the stage within the procedure and the nature of the contract. So:
 - for restricted auction:
 - Selection stage: documentation regarding the qualification and selection of candidates - minimum 25 calendar days
 - Evaluation stage: sending the documentation for the elaboration and presentation of the offer - minimum 40 calendar days regardless of the nature of the contract
 - for open tender: the documentation for the elaboration and presentation of the offer is submitted in at least 40 calendar days regardless of the nature of the contract
 - in case of a competitive negotiation:
 - selection stage: sale Documentation referring to the qualification and selection of candidates - minimum 25 calendar days
 - consultation and negotiation stage: transmission Documentation for the elaboration and presentation of the preliminary offer - no minimum number of days is specified
 - evaluation stage: transmission Documentation for the elaboration and presentation of the final offer - minimum 15 days regardless of the nature of the contract
 - in case of a negotiation with a single source - a minimum number of days is not specified regardless of the nature of the contract

- for the situation of a request for offer - the transmission of the documentation is done in minimum 10 days (in case of works contracts) and minimum 5 days (in case of supply or service contracts)
- Receiving requests for clarifications. For the entire period of submission of the documentation or for the entire period from the time of submission of the documentation, as appropriate, but not later than 8 days before the deadline for submission of letters of interest, preliminary offer or offer, as appropriate
- Receipt of letters of interest and related documents or the preliminary offer or the offer throughout the period from the moment of sending the documentation but not later than the established deadline
- The evaluation of the documents related to the selection by the evaluation committee (in case of restricted auction and competitive negotiation) is done according to:
 - Number of letters of interest and related documents received
 - The established qualification criteria
 - Clarity of received documents
- The communication of the result of the selection stage varies depending on the size, the organizational structure and the regulation of organization and functioning of the contracting authorities.
- Elaboration and transmission of invitations to participate in the negotiation and consultation stage (competitive negotiation). The duration varies depending on the characteristics and nature of the contract, the organizational structure and the regulation of organization and functioning of the contracting authority.
- Establishing the negotiation and consultation meeting/sessions. The establishment of the number of negotiation and consultation sessions and of the time interval between them are at the discretion of the contracting authorities depending on the characteristics of the contract.

The third stage - ***Carrying out the procedure*** - consists of:

- opening the bids and drawing up the minutes of the bid opening meeting. The duration of this activity varies depending on:
 - the number of offers received and the number of forms that accompany the requested offer
 - the means of drafting the minutes of the opening of tenders
 - the way of presenting the information within the offers
 - the logistics available to the contracting authority and the way in which the opening session was prepared
- evaluation of offers and preparation of evaluation report. The duration varies depending on:
 - the number of received offers and the forms that accompany the offer
 - the way of presenting the information within the offers
 - the complexity of the contract
 - the volume of information to be analyzed in an offer
 - the clarity of the forms used in the documentation issued by the contracting authority.

The fourth stage - ***Completion of the procedure*** consists of the following:

- Sending the result of the procedure to all those who submitted the offer. It is made in maximum 2 days from the presentation of the evaluation report and of the proposal for awarding the contract by the evaluation committee
- Concluding the public procurement contract. It is made during the validity period of the submitted offers, but not earlier than 7 days from the date of communication of the result of the procedure

- The transmission of the award notice is made within a maximum of 30 days from the date of concluding the contract
- The entry into force of the contract takes place at the moment of presenting the letter of bank guarantee of good execution, but before the expiration of the validity term of the offers

In the fifth stage - *Contract administration* - is performed:

- Granting and paying the advance. In accordance with the legislation in force and only with the condition of observing the clauses of the contract
- Payments under the contract. In accordance with the legislation in force and only with the condition of observing the clauses of the contract
- Deliveries or receptions. In accordance with the legislation in force and only with the condition of observing the clauses of the contract
- Restoration of the guarantee of good execution. Only after the contractor has fulfilled all the contractual obligations and in accordance with the contractual clauses
- Registration in the patrimony of the contract results. In accordance with the legislation in force.

Conclusions

In the negotiation process, a set of initiatives, contracts and confrontations between the partners are imposed by observing some rules and usages that respect the procedural and deontological requirements. Understood as a process of interpersonal communication, negotiation is a process of interaction, adjustment and harmonization of the distinct interests of the parties through dialogue and discussions on the objectives pursued and the adaptation of strategies to obtain the most advantageous result. Between the communication process and the society there is a close relationship of dependence and interaction, the communication playing a major role in the daily life of each person, regardless of the degree of complexity of the activities it carries out. In the negotiation process an essential moment is the choice of how to conduct negotiation: a special importance must be given to establishing appropriate tactics that must take into account a number of elements, ie the specific circumstances in which the negotiation takes place, the purpose and means available, the actions of the negotiating partner, the techniques used, their dosage and elaboration.

The approach of the negotiation concept must be seen both as a communication process and as a set of influencing factors and general conditions of development that leave their mark on the final results, together with the relations of dependence between them. Negotiation is a competitive process in which, starting from the basis of common interests, the parties seek to reach an agreement that, in parallel with the satisfaction of common interests, to ensure their own preponderant advantages. An essential element in the success of the negotiation is related to the adopted strategy, which must take into account all the factors that can intervene during the negotiation by applying tactics, techniques, tricks and negotiation schemes, learned and practiced in time, in order to get benefits for both parties. It is very important that the two parties in the negotiation focus on win-win situations, with long-term benefits and partnerships, which leads to an integrative and creative negotiation to obtain an advantageous result.

Negotiation will continue to be an essential process in the business world, and in the field of public procurement, the specifics of negotiation have a special importance, a set of knowledge that covers quite varied fields for the application of various types of public procurement contracts being necessary. In addition to the skills specific to the work of a negotiator in the field of public procurement, thorough judicial, planning and forecasting knowledge are required to draw up contracts in the public domain in order to provide services, perform works or products. The importance of efficient negotiation in the public domain is determined by the increasingly complex socio-economic and contemporary political context, as the relationships and activities

that people carry out become more and more diversified. Thus, negotiation begins to impose itself as one of the most precious attributes of daily life, requiring a behavior that determines adaptability, responsibility, innate qualities and a series of intellectual and behavioral acquisitions shaped over time.

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Demographic Factors and Brand Experience Affecting Sport Brand Advocacy of Consumers in Khon Kaen Province

Kritthana Janwattanaphanit¹ and Pensri Jaroenwanit²

¹*Khon Kaen University/Faculty of Business Administration and Accountancy, Thailand, Kritthana.a@kkumail.com*

²*Khon Kaen University/Faculty of Business Administration and Accountancy, Thailand, penjar@kku.ac.th*

ABSTRACT: The purpose of this research was to study the demographic and brand experience factors that affected the brand advocacy in sporting goods businesses. The sample groups were the consumers who have used these services before and currently still used sport. The number of the consumers was 400 persons. The research instrument was a questionnaire. The data were analyzed by using descriptive statistics such as frequency, mean, and standard deviation, t-test, f-test, one way ANOVA and Pearson's Product Moment Correlation Coefficient at 0.05 level of statistical significance. The result of the research indicated that demographic characteristics and brand experience factors had different effects on the consumer sports brand advocacy in Khon Kaen Province significantly at .05 levels.

KEYWORDS: Brand Experience, Brand Advocacy

Introduction

Brand advocacy is the action that customers protect the brand from the criticism of others, as a brand protection and drive the brand against its competitors. In addition, brand advocacy is an expression of brand loyalty and commitment that customers have with the brand, which is the ultimate goal to achieve (Sashi 2012). Besides, the customers can positively advertise and promote the brand to new customers and can also protect the brand from the criticism of others, which is the key to establish brand relationships with new customers (Kang and Hyun 2012). Also, the conversation between new and old customers positively has a profound impact on the success of the brand (Sashi, Brynildsen & Bilgihan 2019). These groups of people will support the brand without a compensation or a gift. When the customers talk positively about the brand with friends or family, the customers will become brand supporters, which, in turn, can help create brand-to-consumer value as well.

The trend of exercise and sports is increasingly popular, which is an important factor that stimulate the market of clothes, shoes, and sports equipment. At present, the market of clothing and sports equipment is growing well with 15-20% growth rate in the past years. Due to the increase of the trend of health and exercise including sport fashion or the trend of dressing in sportswear of the Gen Y and starting working age that has become more popular, the main products that have grown well are running sports and fitness. Until today, Thailand has more than 16 million people exercising or playing sports and tends to increase respectively. They are tagged as an interesting and numerous market that has become so popular brands. Kasikorn Research Center expects sales of sportswear in the country in 2015 to be worth 12,000 million baht and has a chance to reach 15 billion baht in the next year, so the sporting goods business in Thailand is worth studying and researching since it is a business that is increasingly growing according to the trend of Thai people, so in order to study the behavior and predict the behavior of consumers, it is necessary to apply other concepts altogether to be effective and most advantageous.

Due to the above reasons, the researcher is interested in studying factors affecting brand advocacy of consumers in Khon Kaen Province. The study aims at the consumers who have used these services before and currently still used sport in Khon Kaen Province. Researchers hope that the results of this research will cause benefits in the business and academic sectors.

Objective

To study the demographic and brand experience factors affecting the brand advocacy of consumers in Khon Kaen Province.

Literature Review

Demographic Concepts and Theories Demography refers to population analysis regarding the structural size, diffusion and population dynamics related to other socioeconomic and cultural factors. Demographic factors can be both cause and effect of marketing phenomena. (Hanna and Wozniak 2001; Shiffman and Kanuk 2003) have similarly defined demographic characteristics, saying that demographic characteristics refer to information about oneself, such as age, gender, education, occupation, income, religion and race, which all influence consumer behaviors, which are generally considered as fundamental traits, which marketers consider to formulate marketing strategies, linked to the needs, preferences and consumption rates of consumers.

Jamil, Hassana, Farid and Ahmad (2017) studied brand advocacy behaviors by examining gender differences from 400 samples through an online survey. Female consumers were found to be more likely to contribute the brand advocacy than male consumers were. On the other hand, males were more concerned with cultural values and less expressive, and were more likely to suppress their emotions when making a purchasing decision. In the line with Keylock and Faulds (2012), studying factors affecting the brand advocacy, found that different demographic factors, family and social factors result in different brand advocacy.

In Thailand, the research by Siriwan (2007) studied the differences between demographic characteristics, namely sex, female and male which tend to differ in behavior and attitudes. Regarding age, different age groups have different consumption tastes, with individual taste changing. Regarding education, people who have higher education result in a higher consumption of better-quality products and higher prices than those with lower education. Regarding occupation, different occupations result in different demands for products and services.

Based on the aforementioned demographic concepts and theories, it is said that different demographic factors affect the behavior of consumers differently. Therefore, this concept is implemented as a study approach for individual factors differed by demographic characteristics, which are fundamental in determining brand advocacy behaviors.

H1: Different demographic characteristics affect different sporting goods advocacy.

Brand experience is the sensory attached to the brand, feeling, cognition and behavioral response. Brand experience can be established by a touch point (Meyer & Schwager 2007; Schmitt 2010; Lee & Kang 2012). Colin & Ivens (2002) explain that the customer experience is the emotion felt by the customer with own instincts. It can be evaluated by comparing customer's perception with customer's expectation. These are from the contact point where the trade takes place.

From related literature review on brand experience affecting the brand advocacy, the study by Bilro, Loureiro & Guerreiro (2019) focus on brand experience and emotional attachment to the brand advocacy. In online reviews of customers of 15,000 restaurants, hotels and nightlife clubs in 11 cities in the United States. The results of the study show differences among customers who have had a positive brand experience are more likely to contribute the brand advocacy than those who have never had a positive brand experience. Additionally, a recent study by Kumar & Kaushik (2020) found that brand experience affects different brand advocacy behaviors and re-consumption intentions.

Brand advocacy is when a customer had purchased a product or used a service, the advocacy are widely spread. Consumers who use the product or service feel loyal to the brand. In creating a positive customer experience, it will help to create a positive preference, loyalty and

advocacy. Also, it can stimulate the curiosity of those who have never known the brand before so the brand will be known due to the advocacy among loyal customers or on online social media until repurchasing occurs which can expand the network endlessly by the aid of old and new customers (Suwannasarn 2017).

Based on the concept and theory of brand experience mentioned above, it is said that different brand experience affects different brand advocacy. Therefore, this concept is implemented as a study approach.

H2: Different brand experience affects different sporting goods advocacy.

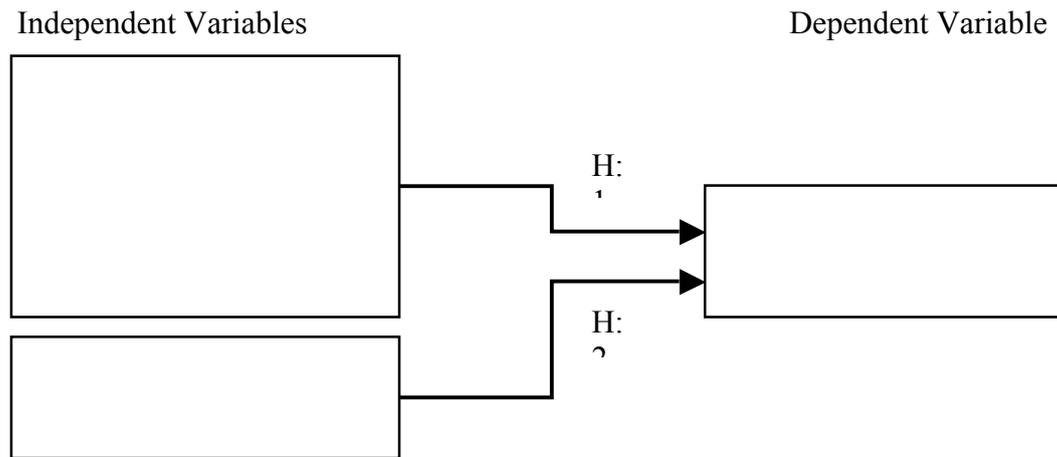


Figure 1. Framework of the Study

Methodology

Population used in this study is the consumers who have used these services before and currently still used sport in Khon Kaen Province. Due to large population, Yamane's formula (1973) was used to calculate the sample size, resulting in the sample size of 400 samples in this study. Purposive sampling was used to select the sample based on the researcher's own decision. The characteristics of the selected groups were according to the objective of the research, that is, they have used these services before and currently still used sport.

Research Instrument: The tool used in this research was a questionnaire to test validity and reliability. Regarding, validity, questionnaires were presented to 3 experts. After that, reliability was tried out by using an improved questionnaire with a population with similar characteristics to 30 samples. By finding Cronbach's Alpha coefficient of alpha coefficient, it was found that the maximum is .902 and the minimum is .878. All values greater than .70 indicate that the data analyzed is highly reliable (Zikmund, Babin, Carr, & Griffin 2010).

Data Analysis: Quantitative analysis was used in this research when the researcher analyzed data by using a statistical package. In this study, the researcher used statistics to analyze the data, including frequency, percentage, mean, standard deviation. The inferential statistics include T-test, one way ANOVA and Pearson's Product Moment Correlation Coefficient with statistical significance at .05 to test the hypothesis.

Data Collection: This survey research using questionnaires to study the demographic and brand experience factors affecting the brand advocacy towards sporting goods in Khon Kaen Province by collecting data from secondary and primary data obtained from questionnaires to analyze the data: 1) the researchers provided the complete questionnaire to customers themselves. The target group can fill in the information themselves, 2) to edit data, the researchers will check the completeness and relevance of the answers in the questionnaire, 3) the researcher will take the correct questionnaire into the coding

as predefined and 4) data processing was done by distributing the frequency of all variables and calculating percentage, mean and various parameters.

Result

Demographic data were found that the majority of the samples were 214 males, 53.5 percent, and 186 females, 46.5.

Regarding samples' age, 181 people are aged between 20-30 years old, 45.3 percent, followed by 134 people aged between 31-40 years old, 33.5 percent, 53 people aged between 41-50 years old, 13.3 percent, 30 people aged between 51-60 years old, 7.5 percent, and 2 people aged over 60 years old, 0.5 percent.

Regarding samples' monthly income, 216 people gain monthly income between 10,000 - 20,000 baht/month, 54.0 percent, followed by 128 people gaining monthly income less than 10,000 baht/month, 32 percent, 45 people gaining monthly income between 20,001 - 30,000 baht/month, 11.3% and 11 people gaining monthly income more than 30,000 baht/month, 2.8%.

Regarding samples' educational background, 218 had bachelor's degree 54.5 percent, followed by 152 people having lower degree, 38.0 percent, and 30 people having postgraduate degree, 7.5 percent.

Regarding experience of using sporting goods of the sample, 226 people use Nike, 56.5 percent, followed by 189 people using Adidas product, 47.3 percent, 138 people using PUMA product, 34.5 percent, 124 people using New Balance product, 31 percent, 53 people using FILA product, 13.3 percent, 32 people using Under Armor product, 8 percent, 22 people using REEBOK product, 5.5 percent, and 12 people using ASICS product, 3 percent.

Regarding sporting goods that were purchased in the past 6 months of the sample, 181 people purchased Nike product, 45.3 percent, followed by 152 people purchasing Adidas product, 38 percent, 82 people purchasing New Balance product, 20.5 percent, 60 people purchasing FILA product 15 percent, 47 people purchasing PUMA product 11.8 percent, 39 people purchasing Under Armor product, 9.8 percent, 20 people purchasing REEBOK product, 5 percent, and 17 people purchasing ASICS product, 4.3 percent.

Data Analysis

Sex: it was found that females exhibited the same level of the brand advocacy behavior as males did, then the duality was not tested.

Age: when classified by age, it was found that different age groups showed no difference in the brand advocacy behavior, so the duality was not tested.

Income: when classified by income, it was found that the different incomes resulted in a statistically significant difference in the brand advocacy behavior at .05. So, the duality was tested by the Scheffe method. There are 2 pairs, namely the group with income more than 30,000 baht per month having the brand support behavior more than the group with income less than 10,000 baht per month, and the group with income more than 30,000 baht per month having the brand advocacy behavior more than the group with income between 10,000. - 20,000 baht per month.

Educational Background: when classified by educational background, it was found that the different educational background showed statistically significant difference in the brand advocacy behavior at .05. So, the duality was tested by the Scheffe method. There is a pair that people with bachelor's degree had more brand advocacy behavior than those having lower degree.

Table 1 shows the results of the analysis of the test of variance

Variables	Brand Advocacy		t	P
	\bar{x}	S.D.		
Sex	3.85	0.49	1.509	.099
Age	3.82	0.95	1.031	.422
Income	3.71	0.72	2.142	.008*
Educational Background	3.88	0.60	1.443	.028*

* Statistical significance at 0.05

Results of the demographic factors showed that different income and educational background distribute different brand advocacy, except for gender and age, with statistical significance level at .05.

Table 2 shows the relationship between factors of brand experience and brand advocacy.

The relationship between factors of brand experience and brand advocacy		Brand Advocacy	Brand Experience
Brand Advocacy	Pearson Correlation	1	.083**
	Sig. (2-tailed)		.000
	N	400	400
Brand Experience	Pearson Correlation	.083**	1
	Sig. (2-tailed)	.000	
	N	400	400

** Correlation is significant at the 0.05 level (2-tailed)

Regarding brand experience, from the Parson Correlation coefficient analysis, $y = .083$ was found, meaning that those who had brand experience had a high correlation with positive brand advocacy with statistical significance at .05 because the value obtained from the analysis is near 1 and is positive.

Discussion

The study of factors affecting sport brand advocacy of customers in Khon Kaen Province provides a better understanding of existing consumers' behaviors. It was found that respondent different brand experiences, income, and educational background had significantly different effect on brand advocacy behaviors, to be able to predict upcoming customers' phenomena and behaviors effectively. Therefore, it can be useful in marketing planning or can develop marketing strategies. In addition, this study brings academic benefits, leading to further study on brand advocacy, which can lead to further academic and knowledge progress.

The results of this study are consistent with previous study conducted by Jamil, Hassana, Farid and Ahmad (2017), finding that demographic differences in gender were found to differently contribute the brand advocacy. This study are also similar to Keylock and Faulds

(2012), which studies factors affecting brand advocacy, found that different demographic factors in family and social factors result in different brand advocacy.

In addition, Siriwan (2007) studied the differences in demographic characteristics affecting consumer tastes and expressive behaviors. In addition, this study found that different brand experience also affects different brand advocacy behaviors, which is similar to the Bilro, Loureiro & Guerreiro (2019), which looked at the differences between customers who previously had a positive brand experience and those who never had a positive brand experience. Additionally, a recent study by Kumar & Kaushik (2020) studied brand experience affects different brand advocacy behaviors and re-consumption intentions.

Marketing Suggestion

This research found three important differences: income, educational background, and brand experience. When consumers are different and diverse in demographic characteristics, it is an important for brands to use this diverse information to formulate different strategies to fit the demographic characteristics of their target market by considering the factors of brand experience. In order to do so, the brand must be easily-accessed and consumer engagement is most prioritized including increasing communication channels between brands and consumers.

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Synthisophy – Integrating the Wisdoms of History into Present Culture

Part II - Summary of Chapters 16 through 30

Andre Houle

Chicopee, Massachusetts, USA, andre@synthisophy.com, www.synthisophy.com

ABSTRACT: This paper is an introduction to synthisophy: roots, mission, description and conclusion.

KEYWORDS: synthisophy, history, science, politics, society, philosophy, religion, technology

I. Introduction

Note that the first paper on Synthisophy, presented at the RAIS 18th Conference on Social Studies and Humanities, August 18th, 2020, discussed Chapters 1 through 15 of this book. This paper will cover the second half of this book on Synthisophy, Chapters 16 through 30, perhaps better described as an extended research paper. Recall the definition and mission of Synthisophy:

II. Synthisophy and mission

Synthisophy - the scientific integration of knowledge and wisdom derived from the study of history into present culture.

Roots – **Synthesis/History/Sophy**

Synthesis – the integration of separate material or abstract entities into a unified whole

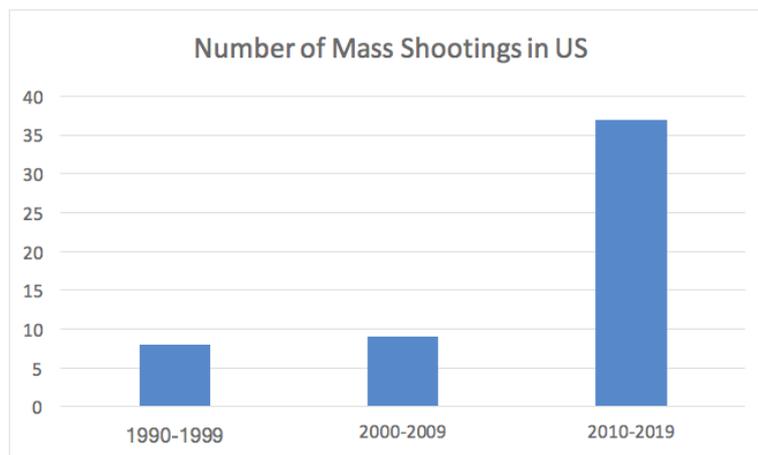
History - what has happened in the past; a detailed description of past events as relating to a particular people, country, period, etc...

Sophy – Greek root: wisdom, knowledge; an intellectual system embracing knowledge and truth; study of the real world based on fact and truth, science

The mission of synthisophy is to depolarize the Nation. Citizens are the crux of democracy, an educated and well informed citizenry is vital for the survival of a democratic republic. As Benjamin Franklin said after exiting the Constitutional Convention and was asked what sort of government the delegates had created, his answer was, “We’ve given you a Republic, can you keep it?” The mission of synthisophy is to depolarize the Nation and to answer Franklin’s question in the affirmative, “Yes, we can.”

III. Review of chapters 16 through 27

16) Skinwalkers



Source: Congressional Research Service

Note that from 1990 through 1999 there were 8 mass shootings; from 2000 through 2009 there were 9; from 2010 through 2019 there were 37. Why does it appear that over the last 10 years our society is generating a sharp increase in skinwalkers, a term from the Navajo Indian tribe for individuals committing murder and mayhem who have rejected almost all social bonds and attack people at their most vulnerable and unprepared? Perhaps it is because, as Junger (2016) stated in his book, *Tribe*, this “shows how completely detribalized this country has become.” Our neurological genetic predisposition, the tribal and warrior ethos, all for 1 and 1 for all, is no longer relevant in modern life. As individuals in modern society it appears we are now very far from our evolutionary roots.

17) Modern Skinwalkers and Societal Cancer

Modern Skinwalkers are individuals and corporations that harm or kill 1000s if not millions of people, but make millions if not billions of dollars for themselves doing it.

Metaphorically as presented in this chapter, fraud in Unemployment Benefits, Welfare, Medicare, Medicaid, and in the Defense, Financial and Pharmaceutical Industries started in their various subgroups (the cells), within a particular industry (an organ), and then metastasized and affected the whole country (the host).

Metaphorically as presented in this chapter, fraud started within the Tobacco companies (the cells), within the tobacco industry (an organ), that has metastasized now affecting people in all countries around the world (the host).

18) Climate Change

Here is a quote from the International Panel on Climate Change, 2014:

Many scenarios lead to substantial climate impacts, including direct harms to human and ecological well-being that exceed the ability of those systems to adapt fully. The planet as we know it is threatened. The energy supply sector is the largest contributor to global greenhouse gas emissions and therefore offers a multitude of options to reduce GHG emissions. But the stabilization of greenhouse gas concentrations at low levels requires a fundamental transformation of the energy supply system, including the long-term phase-out of unabated fossil fuel and their substitution by low-GHG alternatives.

Here are quotes from the International Panel on Climate Change, 2018:

The decisions we make today are critical in ensuring a safe and sustainable world for everyone, both now and in the future. The next few years are probably the most important in our history. It’s a line in the sand and what it says to our species is that this is the moment and we must act now. This is the largest clarion call from the science community and I hope it mobilizes people and dents the mood of complacency.

There is nothing opaque about this new data. The illustrations of mounting impacts, the fast-approaching and irreversible tipping points are visceral versions of a future that no policy-maker could wish to usher in or be responsible for.

19) Smoke, Mirrors and Hot Air

The following is a Summary Statement of The Climate Deception Dossiers, titled Documenting Fossil Fuel Companies’ Climate Deception, written by Elliot Negin, Union of Concerned Scientists, Summer 2015.

Spanning nearly three decades, these documents reveal that the world’s largest fossil fuel companies—BP, Chevron, ConocoPhillips, ExxonMobil, coal giant Peabody Energy, and Shell—were fully aware of the reality of climate change but continued to spend tens of millions of dollars to sow doubt and promote contrarian arguments they knew to be wrong. Taken together, the documents show that these six companies, in conjunction with the American Petroleum Institute (API)—the oil and gas industry’s premier trade association—and a host of front groups,

have colluded to intentionally deceive the public; their corporate officials have known for at least two decades that their products are harmful; and their disinformation campaign continues today—despite the fact that most of the companies now publicly acknowledge the reality of anthropogenic, or human-caused, climate change.

The American Petroleum Institute's 1998 Memo Presents a Roadmap for Climate Deception

Global Climate Science Communications

Action Plan

Project Goal

A majority of the American public, including industry leadership, recognizes that significant uncertainties exist in climate science, and therefore raises questions among those (e.g. Congress) who chart the future U.S. course on global climate change.

Progress will be measured toward the goal. A measurement of the public's perspective on climate science will be taken before the plan is launched, and the same measurement will be taken at one or more as-yet-to-be-determined intervals as the plan is implemented,

Victory Will Be Achieved When

- Average citizens "understand" (recognize) uncertainties in climate science; recognition of uncertainties becomes part of the "conventional wisdom"
- Media "understands" (recognizes) uncertainties in climate science
- Media coverage reflects balance on climate science and recognition of the validity of viewpoints that challenge the current "conventional wisdom"
- Industry senior leadership understands uncertainties in climate science, making them stronger ambassadors to those who shape climate policy
- Those promoting the Kyoto treaty on the basis of extent science appears to be out of touch with reality.

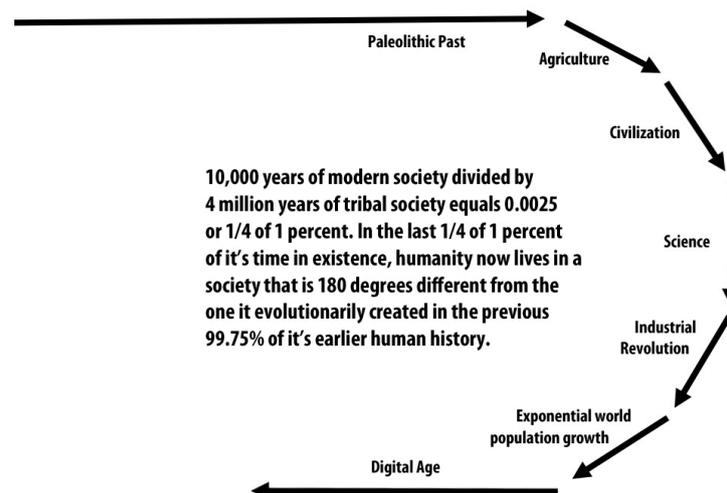
Current Reality

Unless "climate change" becomes a non-issue, meaning that the Kyoto proposal is defeated and there are no further initiatives to thwart the threat of climate change, there may be no moment when we can declare victory for our efforts. It will be necessary to establish measurements for the science effort to track progress toward achieving the goal and strategic success.

The Fossil Fuel Industry is another malignant cancerous Skinwalker that metaphorically started as particular companies (the cells), within a particular industry (an organ), that has metastasized now involving all nations and, and is the cause of climate change that is now impacting the entire earth (the host) at tremendous cost. The Fossil Fuel Industry is making billions of dollars with their deceit while killing their own causing global warming and climate change with increased CO2 levels in the atmosphere, which result in global temperature rise, warming oceans, shrinking ice sheets and glacial retreat, extreme weather events like hurricanes and droughts, and ocean acidification.

20) We Are Very Far from Our Genetic Roots

As individuals and society it appears we are now very far from our evolutionarily and genetically selected, and now our neurologically hardwired roots:



Each revolution results in 30 degrees of change in the direction of humanity

21) Sport, Gestalt and War

The word tribe has been used recently in the news to describe our current political layout, saying 40% of the population supporting Trump are devoted Right, and 40% are devoted Left, and each are using cognitive and confirmation bias and argumentative theory to support their tribal views. Apparently only 20% of the population may have a more centrist realistic political perspective, the other 80% are genetically, confirmationally, argumentatively and tribally biased to the Left and Right.

So is it our warrior ethos and sense of belonging to a tribe that now influences our neuroreality? Homo sapiens were able to dominate the world with its warrior ethos, now this warrior ethos and sense of belonging to a tribe overcomes reason and logic. That tribal instinct then creates different tribes within the whole country, the two main political tribes we have now are the Right and the Left, with sub-tribes as in the alt-Right and illiberal-Left battling each other. Where's our neuroreality as a Nation to let this tribal polarization happen?

22) Fantasyland

Fantasyland is a term used to describe one's perception of reality, one's neuroreality, when that perception is far from actual reality. The following are quotes from the book; *Fantasyland, How America Went Haywire, a 500 Year History*, by Kurt Andersen, 2017.

I've referred repeatedly to full Fantasyland and to events and phenomena (such as President Trump) that wouldn't have happened before it emerged. And, of course, the Internet: starting in 1995 everyone could browse the Web, so let's call 2000, the first year a majority of Americans were online, the unequivocal first year of full Fantasyland.

Our circumstance doesn't seem altogether new. Fantasyland has been the norm for the run of humanity; the unusually rational and scientific centuries here and there along the way, like the last few, are exceptions. Dominant cultures have had their enlightenments and golden ages before, then returned to primitivism and murk.

23) Fantasy Has Become Reality

In his book *Fantasyland*, Kurt Andersen has made a very strong case for his theory that a significant portion of the present population has a perception of reality, a neuroreality, that is simply not true, that we are now in Fantasyland.

I would like to add to Andersen's Fantasyland theory that fantasy has become reality to a significant portion of the US population as he has applied it to the settlement of the New world over the last 500 years, to human evolution over the last 4 million years. Let's review earlier statements.

In the extraordinarily complex society of today, the instinctive cognitive bias, the resulting confirmation bias, that generated the argumentative theory and the tribal ethos, that then led by extension to the warrior ethos, may all very well be present in the 100 billion neurons in your brain helping to generate one's perception of reality, one's neuroreality. And as proposed by Andersen in Fantasyland, that neuroreality may not reflect true reality. It's in our genes. Our perception of reality, our neuroreality, has been in our genes since the advent of Australopithecus and cognitive bias 4 million years ago or perhaps much earlier, to Homo habilis and confirmation bias 3 million years ago, to Homo erectus and the argumentative theory 2 million years ago, all the while from there generating the tribal ethos resulting in the warrior ethos that lead to Homo sapiens 300,000 years ago and their migration out of Africa 70,000 years ago to dominate the world, and to us today.

24) Our Current President and Neuroreality

The neurorealities of Trump as described in this Chapter are quite far from actual reality. Consider earlier mentioned the neurorealities of Einstein in his theories of relativity, Charles Darwin and his theory of evolution and Francis Bacon's description of the scientific method of thinking. These are key perceptions of reality as they really exist, they are truth, and they are real. Let's call their perceptions **neureal**, in these areas Einstein, Darwin and Bacon are **neurealists**, they think **neureally**, their neurorealities are examples of **neurealism** and the **neureal**. As far as Trump's perceptions of reality as described here, his perceptions are **unneureal**, Trump is an **unneurealists**, he thinks **unneureally**, his neuroreality is a example of **unneurealism** and the **unneureal**. And as mentioned in Chapter 21, so are 40% of the current far-Right US population who adamantly support Trump.

25) The Same Unneurealism Exists on the Left

The neurorealities of the illiberal Left as presented in this Chapter are quite far from actual reality. Consider earlier mentioned the neurorealities Albert Einstein, Charles Darwin and Francis. These are key perceptions of reality as they really exist, they are truth, and they are real. Let's call their perceptions **neureal**, in these areas Einstein, Darwin and Bacon are **neurealists**, they think **neureally**, their neurorealities are examples of **neurealism** and the **neureal**. As far as the illiberal Left's perceptions of reality as described here, they are **unneureal**, the illiberal Left are **unneurealists**, they think **unneureally**, their neurorealities are examples of **unneurealism** and the **unneureal**. And as mentioned in Chapter 21, so does 40% of the current US population who are adamantly far-Left.

In the extraordinarily complex society of today, the instinctive cognitive biases, the resulting confirmation bias, argumentative theory and the tribe mentality stoked by the warrior ethos may very well be present in the 100 billion neurons in our brain helping to generate someone's perception of reality, someone's neuroreality, and as proposed by Andersen in Fantasyland, as well as by Powers in The Silencing, and expanded upon by myself, that neuroreality may not always reflect true reality, it may be unneureal. It's in our genes, it's been in our genes for a very long time.

26) Yin and Yang

Note that with much of the historic perspective in this book being of Western origins, perhaps there are some things that the West could learn from the longest lasting civilization on the planet, China and the Far East, which is 5000 years old and is the only ancient civilization that still continues this day.

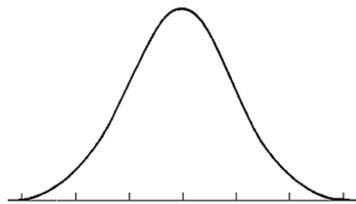


In Chinese philosophy, yin and yang (陰陽 yīnyáng, literally "dark-bright", "negative-positive") describe how seemingly opposite or contrary forces may actually be complementary, interconnected, and interdependent in the natural world, and how they may give rise to each other as they interrelate to one another. Many tangible dualities (such as light and dark, fire and water, expanding and contracting, left and right, black and white) are thought of as physical manifestations of the duality symbolized by yin and yang.

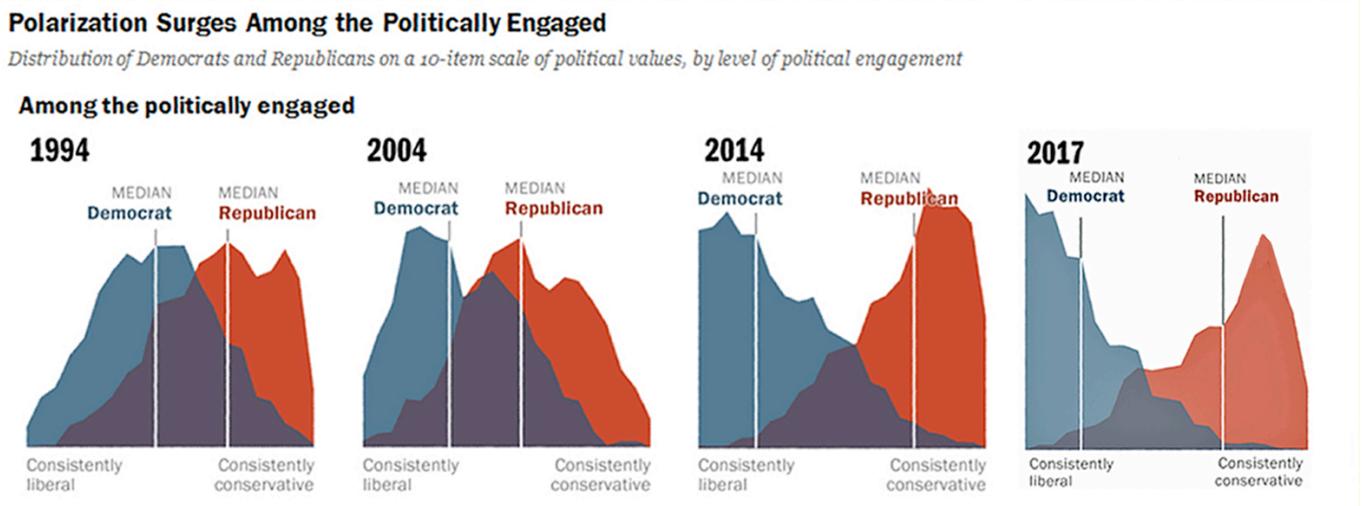
So let's try and get away from illiberal-Left and alt-Right polarization, move towards the more rational Center, integrating aspects of both Yin and Yang (Left and Right) so our society resembles more the functional tribe from whence we genetically and evolutionarily came.

27) The Upside-down Bell Curve

Remember the regular bell curve:



Let's look at the progression of the politically engaged graphs over the past 25 years:



Source: *Political Polarization, 1994-2017*, Pew Research Center (2017)

Note in 1994 there is no split in the curve between the Left and the Right, in 2004 we can see a split starting, by 2014 we can see an increase in polarization as the upside-down bell curve shows itself, and by 2017 the upside-down bell curve becomes prominent. This shows us the polarization of the Left and Right and the upside-down bell curve now present in the USA. If a bell curve is considered normal, why do we as a society among the politically active and influential have an upside-down bell curve, is

that abnormal? Why are we so polarized? The answer lies in the human brain and neurological evolution. It's in our genes, it's been in our genes for a very long time: cognitive bias probably developing over the course of late mammalian evolution and present in *Australopithecus*; to confirmation bias in *Homo habilis*; to the tribe and argumentative theory, where truth doesn't matter, winning the argument and gaining power does in *Homo erectus*; all the while generating the tribal ethos resulting in the warrior ethos that lead *Homo sapiens* out of Africa 70,000 years ago to dominate the world. Our genetically evolved and present cognitive, confirmation, tribal and argumentative biases shape our polarized perceptions of the world around us, and our warrior ethos finds others of similar mind to battle the opposing party. Do we have to be this polarized? Can individual human consciousness be aware of this predisposition and keep it in check, putting value in moderation, reason and truth? Can your neuroreality be neureal rather than unneural? Ben Franklin addressed that question after the Constitutional Convention: "We've given you a republic, can you keep it?" Perhaps if we depolarize, get back to the normal bell curve, become more neureal, and become more centrist as a Nation, the answer will be yes.

IV. Chapter 28) Politics And Thesis 4

I'd like to make a comment here about the unneurealism of the alt-Right and illiberal-Left as mentioned in chapters 24 and 25, as it relates to the discussion of religion in Chapter 10 and 15, particularly Thesis 2 - Realigion. Note that Religion in the United States has been on the decline for the past 50 years. Could this religious neurological void be filled with a zealous devotion to politics? Perhaps politics has taken the place of religion, particularly among the unneureal alt-Right and Illiberal-Left. Recall the old adage, never talk about politics or religion? Thesis 4: Perhaps politics on the alt-Right and illiberal-Left has become their religion.

Before we delve into Chapter 29 and address various political issues in the US, let's take a look at the opinion of Zeynep Tufekci in 2018, as she expressed in her article in the New York Times, March 2018, titled: YouTube, the Great Radicalizer. This article sums up quite clearly the impact of the Digital Revolution on society today:

It seems as if you are never "hard core" enough for YouTube's recommendation algorithm. It promotes, recommends and disseminates videos in a manner that appears to constantly up the stakes. Given its billion or so users, YouTube may be one of the most powerful radicalizing instruments of the 21st century.

This is not because a cabal of YouTube engineers is plotting to drive the world off a cliff. A more likely explanation has to do with the nexus of artificial intelligence and Google's business model. (YouTube is owned by Google.) For all its lofty rhetoric, Google is an advertising broker, selling our attention to companies that will pay for it. The longer people stay on YouTube, the more money Google makes.

What keeps people glued to YouTube? Its algorithm seems to have concluded that people are drawn to content that is more extreme than what they started with — or to incendiary content in general. What we are witnessing is the computational exploitation of a natural human desire: to look "behind the curtain," to dig deeper into something that engages us. As we click and click, we are carried along by the exciting sensation of uncovering more secrets and deeper truths. YouTube leads viewers down a rabbit hole of extremism, while Google racks up the ad sales.

This state of affairs is unacceptable but not inevitable. There is no reason to let a company make so much money while potentially helping to radicalize billions of people, reaping the financial benefits while asking society to bear so many of the costs.

V. Chapter 29) What can we do?

With synthisophy in mind.... what can we do to depolarize the Nation?

Recall that hominids that cooperated with one another – and punished those who didn't – must have outfought, outhunted and outbred everyone else. Over millions of years, this genetically evolved and

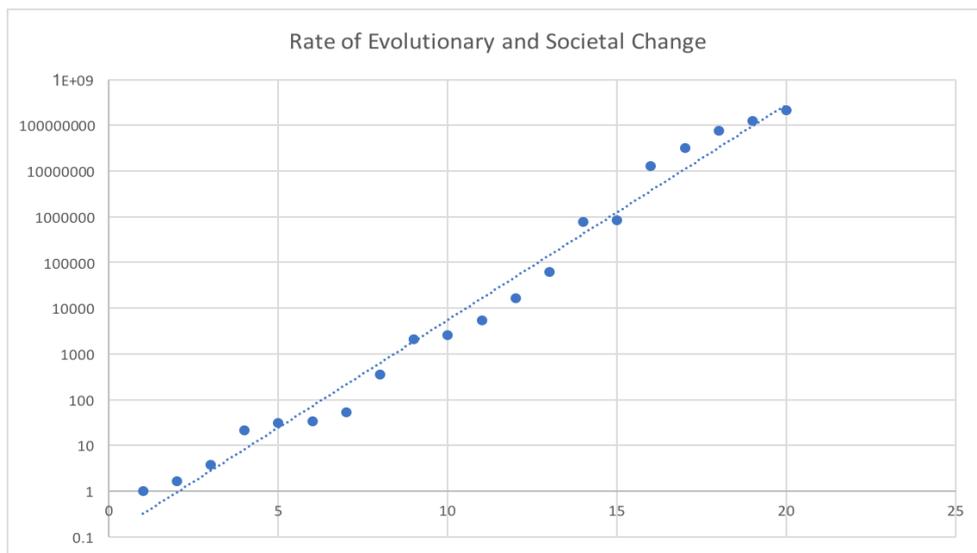
biologically selected tribal ethos resulting in the exit of Homo sapiens with the extension of the warrior ethos out of Africa 70,000 years ago, lead to the dominance of this human species and the extinction of others. This ethos resulted in our becoming the dominant and only human species on the planet and is still hardwired into our evolutionary genetic consciousness.

So maybe if we understand that these evolutionarily developed instinctive cognitive biases, the resulting confirmation biases, and the argumentative theory stoked by the tribal and warrior ethos may very well be present in the 100 billion neurons in our brain generating our perception of reality, our neuroreality, which as proposed by Andersen in Fantasyland, Powers in The Silencing, and expanded upon by myself, may not always reflect true reality, it may be unneural. It's in our genes, it's been in our genes for a very long time. So let's take a step back, try and detach ourselves from this genetic predisposition, take a deep breath and try and be a bit more rational rather than emotional in our political positions and discussions, listen, seek truth rather than argument, and reduce the amount of polarization and vitriol present in our society. Restated, let's be politically active, synthisophic and neureal.

So what can we do to depolarize the Nation? Take Action: Participate in the democratic process as suggested in this Chapter, be an informed citizen, get involved in a cause that will better society. We need an active and informed citizenry. Consider classical times in ancient Greece: At any particular point in time, not just on election day, an estimated 75% of voters were participating in government in one form or another. Consider what Thomas Jefferson said: "the people can not be all, & always, well informed, the part which is wrong [. . .] will be discontented in proportion to the importance of the facts they misconceive. If they remain quiet under such misconceptions it is a lethargy, the forerunner of death to the public liberty." Abraham Lincoln said, "If we falter and lose our freedoms it will be because we destroyed ourselves." So Take Action on one of the 30 political issues discussed in this Chapter, or any of the 100s of other issues you think are important to you, society and humanity.

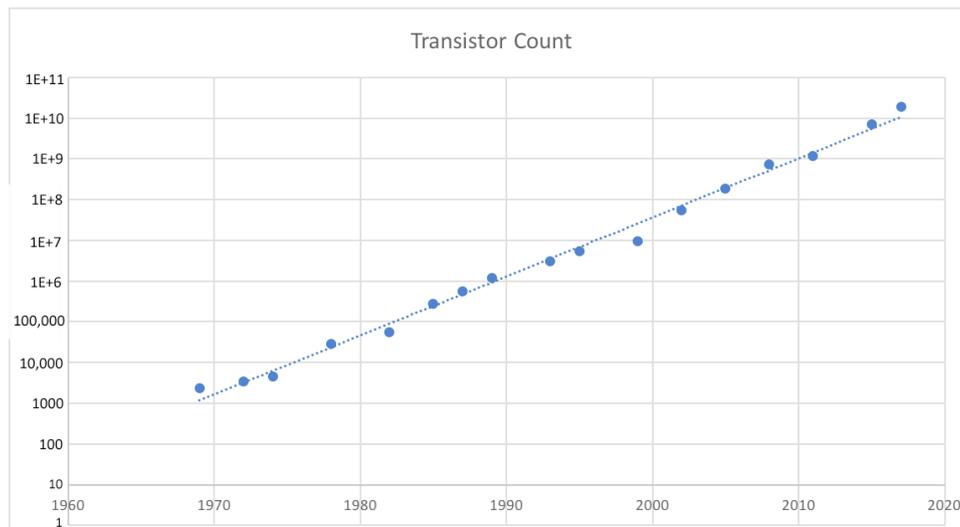
VI. Chapter 30) Our future

Let's look at an exponential graph showing the rate of evolutionary and societal change over time using earlier presented data:



Source: <http://www.synthisophy.com/30-our-future.html>

This above graph looks quite similar the graph below generated for transistor counts in computers over time shown below:



Source: <https://ourworldindata.org/uploads/2019/05/Transistor-Count-over-time-to-2018.png>

What does this logarithmic similarity between evolutionary and societal change over the last 3.8 billion years and the computer transistor count in the last 50 years mean? At this point in time this similarity may mean that we are in the early stage of huge societal changes as a result of the digital revolution, and that it may be in our best interest to become less polarized and more rational in order to best choose our destiny as a society. We should heed Ben Franklin’s question: “We’ve given you a Republic, can you keep it?” Yes, and to do so we need to be politically active, synthisophic and neureal.

That said, the convergence of the human/societal evolution and the transistor count/digital revolution may at some point in the not too distant future reach the point of singularity, when computers and artificial intelligence equal that of the human brain, after which computers will then surpass human intelligence. As stated earlier in Thesis 3 Chapter 15, note that computers can process and correlate billions of bits of information per second, whereas the human brain at the consciousness level is very limited in that capacity. Also note that the human brain can integrate many pieces of related information and create new and original ideas, not just correlates.

Looking at Bloom’s taxonomy, computers can remember, understand, apply, analyze (correlate) and even evaluate information. But at the top of Bloom’s taxonomy, only the human brain can create new and original ideas integrating many pieces information from a wide variety of historic sources and come up with something completely new and of possible societal value. Restated, computers cannot and will not be able to synthisophize, integrate the wisdoms of history into present culture. Only we, the people, can do that. So let’s do it!

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Ernesto de Martino - Mircea Eliade Contrast

Aurelia Săbiescu

Ph.D. Student, University of Craiova, Craiova, Romania, aura79sabee@yahoo.com

ABSTRACT: It is important to say that a decisive part within De Martino's process of intellectual becoming is represented both by the evolution of his thinking process starting from theories and concepts that he initially embraces, which he later abandons or nuances, but also by his relationship with other intellectuals, that is the dialogue he had with these and the extremely fruitful role of reciprocal criticism. It is what we actually find within the things exposed above. A remarkable thing to notice is the dialogue between Ernesto de Martino and Mircea Eliade. But before formulating some conclusive remarks of these reciprocal exchange of impressions and objections on the theoretical level regarding their implications on De Martino's work, it is important to bear in mind some substantial aspects of De Martino's major influences prior to his dialogue with Eliade. Starting from his initial argument, which he expressed when he was young, on the importance of the necessity of exploring the world of mystery, but also from the major loss of western thinking of ignoring this subject, De Martino structures his analytical work on Benedetto Croce's conceptual basis. After internalizing Croce's perspective on history, even on mystery, De Martino takes over on Croce's basic idea of the mystery's own existence as imaginary abstract category, which reason cannot define accurately, but particularly emphasizes on the western world accumulation of prejudices (pre-conceived ideas) on this topic. Moreover, De Martino notices the essence of Croce's idea, which he takes and applies conscientiously as methodologic landmark of his entire work: the fact that, the irrational, which is an intricate aspect linked to the "mystery" theme, operates on the level of history.

KEYWORDS: mystery, the irrational, history, abstract category, intellectual

Introduction

De Martino developed the theme of the magical world in a complete and clear way. Magic "helped to release the secular power of the intellect" (De Martino 1941, 74).

To Croce, essentially, history is the work of spirit, and this can only be fully known, by accessing all its component elements; without knowledge of human actions and thoughts, but especially of their profound resorts, within which mystery is also intertwined, historic knowledge will be only partially accomplished. He says: "Reality is history and nothing else" (Croce 2002, 59).

Another fundamental moment in De Martino's thinking is represented by his contact with Vittorio Macchioro's personality. He places mystery within religion and points out explicitly that the only way to knowledge is by experience (experimenting), not by abstract knowledge.

It is what is sedimenting in De Martino's mind and ultimately triggers his actions with a view to his field ethnologic researches and his endeavors to participative observation that he is going to accomplish within the rural communities of Italy. Macchioro begins from explaining the role of the shaman as a mediator of accomplishing access for mortals to the world "of the beyond" (Macchioro 1922, 79), thus appealing to the orphic myth, but also to the Christian elements of representation of the savior god, Jesus Christ.

De Martino distinguishes his approach from that of Macchioro as late as 1939, when he chooses to keep his option for a rationalistic approach, yet not abandoning the concept of mystery, but which he definitely chooses to place within the area of the manifestation of magic, of rite and religion thus staying faithful to Croce's influence, from this point of view. What is interesting to notice in De Martino's case is the fact that, in the particular case of magic, he keeps the analytical subjectivity taken from Macchioro, which he acknowledges as indispensable within the ritual practices.

But the point of separation between the two of them appears together with Macchioro's relentless opinion according to which any rational endeavor of analyzing the phenomenon of magic represents the very implicit loss of the essence of its knowledge, respectively, a degeneration of the authentic religious moment. As a matter of fact, staying in good personal relationships, and the plot unfolding only on the intellectual level, Macchioro is the one who introduces Mircea Eliade to De Martino, facilitating the very intense communication between his two disciples.

Ernesto de Martino - Mircea Eliade. Contrast

Being intellectually closer to Macchioro, Mircea Eliade deepens his own conceptual instrumentary with an essential application in his study on yoga. Thus, De Martino gets to be interested not only in the subjects approached by Eliade, but also Macchioro himself facilitates the Romanian scientist's notoriety, both in Italy, and in other European countries. Moreover, Macchioro succeeds in establishing several fertile connections between Eliade's observations on Indian yoga and his own opinions on Greek antique Orphism.

But the moment of separation appears in 1948, when each of the two intellectuals publish their two fundamental works, within which they also include their confessions of manifesto type: De Martino's "Il mondo magico" (De Martino 2007, 48) and Eliade's "Techniques du yoga". The reciprocal reviews let out both praises and intense appreciation, but also divergent points of view, brought up especially by reflections on yoga.

The central points of the argument emerge together with De Martino's perspective on religious ritualism, which he considers a useful tool in the attempt of abolishing history, but which cannot be fully accomplished because of man's impossibility of surpassing his existential fate. De Martino practically severs, like a genuine Ockham razor, in a dichotomic manner, the historic world (which also includes the religious one) from the magic one. Through yoga he sees a confirmation of the failure of the religious paradox of not being able to conquer over the existential angst, whereas magic has a functionality of controlling the risk of missing being present.

Eliade responds to these remarks by verbally signaling "the insurmountable connection between magic and religious" (Eliade 1948, 72), between the co-existence of the two, and, implicitly, of the partial information of the theory of de-historization sustained by De Martino, respectively, of the distinction of strictly rational order, which the latter makes. Later, the argument between the two is going to focus on the rapport between Eliade's phenomenological-morphological position and De Martino's historicism.

As to historicism, Eliade does not hesitate to point out its limits, from the insufficient capacity of justifying and explain history, to the refuse of the profane time, which lost connection with the archetype area. If, according to Eliade, the two natures remain impossible to treat separately, to De Martino, these two will be dealt with as two histories, respectively, one as a religious historiography, and the other, as a religious vision on the world. Moreover, the religious de-historization theme becomes a real possibility of getting out of the crisis situation for Eliade, somehow, out of this world, whereas to De Martino, religion gets to create the sacred, by means of the rite, which is nothing else but a revealing factor of a crisis situation.

In addition to this, in De Martino's view, de-historization leads to liberation, reevaluating the beginning of the world but the effect produced is not an effective exit into another plan as opposed to the world, but both the effect, as well as the function of the myth remain fundamentally historic, although the mechanism itself of these is a de-historicizing one. In other words, for an even clearer understanding of De Martino's perspective, we are talking about a different situation towards history - of cultural rank (a need triggered by the angst of the crisis moments), - and not about an "exit" per se, out of the given history frame, such as Eliade skilfully arguments his perspective, in his analysis on the religious issue.

To Eliade, the religious fact cannot be reduced strictly to some historical lens of observation, without taking into account its multiple features of contents, especially of the archetypal value (inexhaustible, autonomous and innate) of this.

But, to De Martino, the angst, as an attack to presence, is not part of man's ontological structure, but represents a constitutive factor of existence itself, de-historicization being perceived as a simple mechanism of solving a crisis, and not treated as "ideology" through which we state an ontological status of man, which transcends the frames of history.

With Eliade, on the other hand, we need to understand that the ritual repetition of archetypes and the religion's capacity of assuring a real escape from history have got an effective ontologic status; this is, as a matter of fact, the central element that De Martino does not agree with. De Martino sees the historian's impossibility of freely accessing archetypes and therefore, of repeating the sacred in its archetypal form, other than through their form of successive manifestation in history.

Ultimately, it is in this dichotomic rapport that the intellectual tension core with Eliade lies, and beyond this theme, any other dealt with theoretical elements can be perceived as collateral. Still, we cannot overlook Eliade's major influence in De Martino's work within both his theory structures and his conceptual instruments.

A rather remarkable common point worth noticing with the two writers is the interesting approach towards the problems of the correspondences between parapsychology, ethnology and the history of religions, which were extensively researched by De Martino in his "Il mondo magico", but fiercely attacked by Eliade, thanks to Tylor and Frazer's influence regarding the favourable orientation for the study of magic and paranormal phenomena as effective realities, accessible to an analysis of objective sort. At the same time, we cannot ignore the importance of the rapport of the two great savants with regard to modernity, which helps even more in separating the two writers' concepts. I deal in detail with these aspects, focusing mainly on the moment of rupture, in which the two intellectuals (De Martino/Eliade) publish two fundamental works, in which they include their manifest confessions: "Il mondo magico" by De Martino and Eliade's "Techniques du Yoga". Mutual reviews reveal both intense praise and appreciation, but also delimitation points, born especially along with the reflections on yoga.

The central points of the dispute emerge with De Martino's perspective on religious ritualism, which he considers a useful tool for trying to "abolish history", but which cannot be fully realized due to man's inability to overcome his existential condition. De Martino practically cuts, like a real razor of Ockham, in a dichotomous way, the historical world (which also includes the religious one), from the magical one.

Through yoga, he sees a confirmation of the failure of the religious paradox of not being able to overcome existential anxiety, while magic still has a function of controlling the risk of losing presence. Eliade responds to these observations by pointing out, however, the insurmountable connection between magic and religion, between the coexistence of the two and, implicitly, the partial refutation of De Martino's theory of dehistoricization, respectively the strictly rational distinction that the latter makes.

Subsequently, the controversy between the two will focus on the relationship between Eliade's phenomenological-morphological position and De Martino's historicism. In terms of historicism, Eliade does not hesitate to present its limits, from the insufficient capacity to justify and explain history, to the refusal of profane time, which has lost touch with the area of archetypes. Moreover, the theme of religious de-historicization becomes for Eliade a real possibility to get out of the crisis situation, in an outside the world position, while, for De Martino, religion ends up creating the sacred, through the rite, which is nothing but a reveller of the crisis situation; moreover, for De Martino, dehistoricization leads to liberation, revaluing the data of the world, but the actual effect produced is not an effective exit in another plane to the world, but both the effect and the function of the myth remain fundamentally historical, although their actual mechanism is a dehistorical one.

In other words, for an even clearer understanding of De Martino's perspective, we are talking about a different situation from history - of a cultural nature (a need triggered by the anguish of moments of crisis) - and not of a proper "exit" from the frames of the given history, as Eliade skillfully argues his perspective, in his analysis of the religious.

Conclusions

If, in De Martino's case, modernity is dealt with almost ideologically, meaning that De Martino admits modernity's full capacity of knowledge, to Eliade modernity becomes rather a hinder in understanding phenomena, and, when it refers to myth and to the central functionality that the symbol has, Eliade sees modernity as just a simple surpassing of the traditional.

Yet, there is a series of common points between Eliade and De Martino, noticed especially through the theories that De Martino takes over from Eliade, when this one tries to explain the mechanism of sending, through symbol and rite, to the meta-historic plan, although the Italian scientist continues to see the symbol as a simple accomplishment of the value plan, produced under cultural stimulus.

Through the work he leaves behind and the innovation of his forays as a pioneering researcher and true intellectual, De Martino remains a prolific culture maker and a pioneer in the field of ethno-anthropology, who can still contribute in a remarkable extent, including the development of the research in the field, continuing to stimulate, in a substantial way, those interested who want to follow his path.

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Dimension of Interfaith Harmony in Albanian Culture

Dr. Genti Kruja

*Secretary General of Albania Interreligious Council & Head of Islamic Sciences Department at
University College Bedër, Albania, gkruja@beder.edu.al*

ABSTRACT: In its general meaning, “culture” is defined as a spiritual non-material world in the life of different societies, while civilization is defined as, a material world reflecting cultural values. Sociological sciences, particularly during the twentieth century, have given a broader meaning to the concept of culture. In addition to artistic, scientific and philosophical creativity, the contemporary sociological concept of culture includes the totality of activities and of the ways of living of its society members (Dervishi 2003, 5). The concept of culture is one of the most used notions in sociology. Culture consists of the values that members of a group own, the norms they respect and the material goods they possess. Values are abstract ideals, while norms are defined principles or rules which people must follow. Norms determine what should and what should not be done. According to sociologist Giddens, culture consists of lifestyles, clothing, ceremonies, traditions, and customs and so on. Culture as a concept is distinct from society; however, there are close ties between the two notions. Society is the system of mutual relationships that connect individuals of the same culture. No culture or society can exist without each other (Giddens 2007, 43). In the traditional Albanian culture, stand out values such as patriotism and devotion, self-sacrifice in the cause of homeland, humanism which can go up to extreme altruism, the desire to be educated, generosity and honesty. In the system of values of the traditional Albanian culture, the most prominent values, the ones that distinguish it from other European cultures and beyond, are *Besa* (pledge of honour), hospitality and religious tolerance (Dervishi 2003, 31).

KEYWORDS: Albanian culture, civilization, interfaith harmony, *Besa*, interfaith dialogue

Introduction

The way of value exchange between civilizations is present among Albanian people. In this aspect, among Albanians there two levels of interaction of values can be mentioned: the relations between Albanian subcultures influenced by Christianity, Islam, and the relationships of Albanian culture with the culture of its neighboring peoples, which have coexisted within the Albanian people since the XIV century. They are present in the lives of Albanians and therefore require objective and deep approach by competent professionals, as they have left deep traces in various fields of scientific disciplines and in the lives of Albanian people in general. This coexistence is found in art, architecture, language, beliefs, and so on.

For example, only experts in the respective fields can study and explain properly the different colours in Muslim art, the various shapes in Byzantine art, the decorations of religious cult objects, the external forms of residential buildings, the design of bridges or public fountains, and the shelters for chance passers-by. Only an expert can investigate and explain the decorative and architectonic illustrations in Albanian territories, the cross and the crescent together, the sun, and so on.

Thus, Durham noticed drawings of the sun and the crescent on tombstones, drawings of the crescent on chairs in Dukagjin, cravings of the sun and the crescent in a Muslim house in Vuthaj and in tattoos on the Catholics of Shkoder (Durham 1928; Salihu 1990). Interestingly, Durham encountered these illustrations only in Albania, while in Bosnia she found only illustrations of the sun and the cross.

The illustrations Mark Tirtja mentions in his work *Elements of Illyrian culture among Albanians* talk about an exchange between the Illyrian culture and civilization and the culture and civilization of the peoples of the East (Tirtja 1978, 267-288).

In these illustrations, we find the six-pointed star in different shapes, carved on wood and house doors in Martanesh, Kruja, Postriba, and so on. The figure of the six-pointed star is present in Kichevo, especially on coffers of new brides' trousseaus. The so-called Star of David (now a Jewish symbol) symbolized the power of Prophet David in Muslims. It can also be found in the architecture of mosques in particular and that of Islam, in general, in the constructions of the Ottoman rule period.

The two religions of Albanians during this period developed normally and were always united for the protection of the Albanian national integrity. To illustrate this finding, let us consider the letter of Luigj Bumçi addressed these words:

“Excellency, all the missionaries of the Albanian mission in Paris, and most of whom are Muslims, sent me here and all in one voice beg you to use your moral power... to save two Albanian provinces, Korça and Gjirokastra, from the danger of a violent accord” (Mehdiu 2016, 57-58).

Multiculturalism and Albanians

As academician Feti Mehdiu states in his book *The religions of Albanians are Islam and Christianity*, the fact that Albanians belong to two religions, Islam and Christianity, that is, in their national culture cooperate two cultures from two holy books, from the *Gospel* and the *Qur'an*, should not be understood in any way other than it is found in the *Holy Scriptures* and the *Qur'an*.

It is an undeniable fact that Albanians are not the only people with two or more religions. Their religious affiliation has never led to national disintegration because, in principle, the two religions do not incite hatred, but understanding and tolerance.

Professor Mehdiu is convinced that if we adhere to the definitions of our renaissance, who treated the issue of religions among Albanians within the framework of the two holy books, the Gospel and the Qur'an, because the religions of Albanians are based on these books, we will make a greater contribution to national integrity and will narrow the path to disintegrating tendencies to divide Albanians in the name of religion (Mehdiu 2016, 43).

He also says that “we are a people with two religions but we are not a people with Bartholomew”. Any manipulation of religions, identities, tolerances, conversions, continental and regional affiliations, and so on, which endeavors to disguise and pretend that they contribute to the resolution of the Albanian problem in the United Europe, is out of historical and geographical context and is an illegal wave to the future of the Albanian people.

It is the merit of the holy books that the followers of the religions who rely on these books have coexisted to this day. The Balkans have been and still are the most important bridge for the connection between the East and the West, and, for this reason, it has served the holy books.

Finally, based on the history and experience of the development of civilization and culture of Albanian people, especially during the last six centuries, we can say that the Albanian people have also cultivated subcultures influenced by different religions. This readiness for dialogue between these two cultures has been demonstrated not only among the Albanian people who speak the same one language and belong to the same one nation, but also in relation to other peoples who have a different culture. Cultivation of these subcultures without illusions, without overlooking, and without contempt for one or the other guarantee a bright future for the Albanian people.

If the experience of the past is not used and if some evaluations of the past and some actions of the present are not corrected, without analyzing the steps to be taken in the future and without accepting the historical responsibility that belongs to us, there will be no bright future. Nermin Vlora has said that civilizations come and go. Cultures remain sealed in time just like real light that never goes out over centuries.

According to Lubonja, Albania is in a sense a miniature of global issues, due to its existence in a geopolitical and cultural place, which has also constituted a crossroads of

civilizations. Addressing this global issue, Habermasi says that economic globalization and migratory movements are creating a “global society” composed of “different civilizations that respond differently to the same challenges posed by homologous dynamics of economic modernism. He asks what the relations between these civilizations should be. Should we think of them as aligned in alliances that conflict over alternative visions of good and evil inspired by religions? Or should we imagine that these civilizations will cultivate an “intercultural” discourse over the principles of peaceful coexistence between equals?

The European secular reason thus returns, - according to Habermasi, - to the centre of attention as a model of configuring what might be the intercultural ethos of a world society in which different civilizations meet.

This would also be the best model of the 20th century Albania, whose historical destiny has made Islam, Christianity and some other cultures coexist, intertwined with each other.

Albania has intercultural discourse, but this variety is an asset that should be preserved rather than a danger that must be eliminated (Lubonja 2008).

Therefore, many foreign researchers would be amazed to see that in a multi-subcultural and multi-religious society, such as the Albanian one, the specific weight of volunteers primarily engaged in practical activity to avoid manifestations of religious intolerance, is very low, 3.18% (Dervishi 2004, 197).

Sami Frashëri’s concept of civilization

With the word civilization, Sami Frashëri understood man’s efforts to discover the secrets of nature and his achievements in this respect, as well as the efforts to put these achievements of science, knowledge, industry and trade in his service and in the service of the entire mankind (Sami 1996, 523).

With its emphasis on the pragmatic aspect of this notion, Frasher’s scientific definition of civilization has taken its place in modern Turkish dictionaries; he also authored the first encyclopedia in Turkish. They define civilization as the totality of achievements made through efforts to rule nature and to live as well as possible as human beings and as a society (Dogan 2003, 891).

As it can be seen, in Sami Frasher’s scientific works we encounter a modern definition of this concept. It clearly and fully reflects the essential elements of every past and modern civilization, the basic elements on which are placed the totality of the social, cultural, scientific, material, religious, aesthetic phenomena that constitute and complement the said concept. Even nowadays the definition provided by Frashëri can hardly be further clarified. The great scholar has left no room to add anything substantial or any new elements associated with the concept. You are convinced of this as soon as you start browsing modern dictionaries not only of Turkish, on which he had a great influence, but also of any language.

Meanwhile, in one of the French dictionaries, civilization represents the totality of common characteristics or qualities in broad developed societies or the totality of achievements of human society. In another case, it is defined as the set of genuine characters of the intellectual, artistic, moral and material life of a country or society.

The word civilization, as explained in a Russian dictionary, means the degree of social development and material culture, typical of this or that socio-political formation. The totality of achievements in the field of material and spiritual culture and social development, which characterizes a socio-economic formation or a particular people or country, as a high degree of this development, is the definition of civilization in the dictionary of Albanian language (Thomai et al. 2006, 886).

Civilization, according to the definition of English lexicography, represents a degree or system of advanced social development (The concise Oxford dictionary of current English 1998, 181).

These dictionary quotations show that despite the paraphrases, Sami Frashëri's definition of the term civilization is in essence, the one that still prevails in the world of science.

Shemsedin Sami Frashëri's scientific definition represents an argumentative opposition to those "prophecies" foretelling that mankind is facing a "clash of civilizations". In this context, efforts are being made to provide a new definition of the term civilization.

Civilization, according to authors like Huntington, is cultural identity. Civilizations rise above cultural heterogeneity.

"Civilization is defined by both common cultural elements such as language, history, religion, customs and traditions, as well as people's subjective identification" (Huntington 2004, 48-69).

This author further emphasizes that civilizations differ from each other in history, language, culture and traditions, and, most importantly, in religion.

Regardless of what is happening round the globe today, it can be said that our world may be under many threats, but the threat of clash of civilizations cannot be existent. Dark and dangerous forces that are currently a threat to the world are not part of any modern civilization. In other words, it can be said that civilizations have not clashed with each other; they have inherited each other.

Sami Frashëri competently materialized his scientific concept of the unique and progressive development of civilizations in the history of mankind in his major work, his six-volume encyclopedia, a universal dictionary of geography and history, *Kamus-ul-alami* (Encyclopedia of the Worlds), well-known not only in Albania and Turkey, but also in a wider scholarly circles, especially among Orientalists.

Although they found themselves at the crossroads of the Middle Age Crusades and the most recent wars of our time, Albania and Albanians have never experienced religious wars. Rather, it is a land on which several religions have coexisted and continue to coexist in harmony.

Interfaith Dialogue - a national necessity too

As it is widely known, Albania is a multi-religious country due to the existence of four major communities which have believers of different ages and provinces. Another reason is the fact that there exist various religious denominations and sects, which have recently entered the country, and, which have numerically small communities of believers.

In contemporary Western philosophy, there is great deal of concern regarding the conditions and circumstances of dialogue between individuals and social groups belonging to different religions, cultures, languages, traditions, races, and nations. Particularly in today's globalized world, this aspect takes on a special significance due to the fact that as a result a mixing of populations, which previously lived somehow isolated, nowadays due to internal migration, which comes as a result of massive rural movements, but also as a result of an influx of migrants abroad, individuals of different ethnic backgrounds live within the same region, urban area or city.

In the conditions of democratic societies, as the Albanian society is aspiring to become, it should not be forgotten that interfaith dialogue brings both a great advantage and a big risk. The advantage has to do with the fact that all communities and individuals now have ample opportunity to freely and unrestrictedly express their ideas, their faith and their culture. However, on the other hand, there is the risk of creating great socio-cultural and community divisions within the same society; there is the risk of creating misunderstandings and different borrowings within the same city, the same nation, the same neighborhood, and why not, even within the sub-culturally mixed families.

Researcher Artan Fuga points out that for decades Paul Lazarsfeld, one of the most well-known representatives of 'Columbia School' managed to make the great discovery that the individual in today's modern societies does not respond to daily facts, to political events and to

the media simply and only individually (Fuga 2006). Individual attitude is a fact that comes from the democratic status of everyone who enjoys individual rights and freedom; however, this does not mean that even realistically, in terms of the sociological plane, individuals share attitudes, beliefs and reactions that are simply individual and that can totally disregard the values of professional, familiar, regional or religious communities of the group to which they belong.

Studying the behavior of these primary groups, which include religious communities too, Lazarsfeld says that the individual has a psychological tendency to identify with the values of the community in which he lives because he needs to stay away from individualistic anxiety; that is, he often tends to depart from an independent judgement gaining collective security within his group of affiliation, as he put it, even by paying for it with conformism.

Lazarsfeld did not fail to talk about “the benefits of conformism”. From this point of view, consideration should be given to the fact that after the fall of communism in Albania, with the construction of new social ties and with the presence of new political, economic and demographic trends, many previous socio-professional and provincial groups disbanded, while the individual started to experience a detachment from his primary group such as the family and the work collective, or even from the public opinion of the close circle in which he used to live and work. Meanwhile, religious communities were born, or rather revived, and started to gain the right to free expression of religious affiliation.

Scholar Fuga underlines that in this plan, as Lazarsfeld points out, the individual in a democratic society finds himself in a double, or even contradictory, situation. On one hand, he is the citizen with individual rights and a democratic state requires such a thing, On the other hand, precisely due to a democratic social environment, the individual is more and more identified with and reacts based on the values of his group, including his religious affiliation or traditions, in the case of believers.

Thus, it is necessary to keep in mind the tension created between the judicial and political status of the individual and his collective status as a member of different communities. Exaggeration of the individual dimension leads to an individualism, which undermines everyone’s moral values and atomizes society; meanwhile, exaggeration of the communitarian dimension, whatever it may be, carries the risk of communitarianism, in other words, the closure of the individual within his close circle of the group to which he belongs.

Sociological data show that in the Albanian society religious affiliations have not led to a close and exclusive connection of different believers determined by their religion.

Research has demonstrated that for various reasons, which can be debatable, general interpersonal connection among Albanians does not remain fragmented within certain religious and social affinities that different individuals have with one another. Survey data show that only 13.7% of the respondents living in urban suburbs and 8.7% of those living in urban areas report weak or rare relations with individuals from other faiths (Fuga 2006). Others believe that despite their beliefs, their professional, social and neighborly interaction does not end within a narrow community circle.

Seen from this angle, it can be said that although today’s Albanian society has not experienced religion-based enclaves, various communitarian attitudes are also observed; they usually tend to confine the individual within the close circle of his religious group. In addition to pushing the individual to the common reaction to the religious spiritual values, they keep under pressure even attitudes to issues of the profane world such as politics, social relations, marital status, and manner of dressing, as well as seek to superimpose themselves on to rights and freedoms that the democratic constitution guarantees exclusively to the individual.

According to this study conducted by Artan Fuga, 40.35% of the respondents who report going to a religious institution every day state that if a friend or relative of theirs would think or want to change their religion, they would consider this a shame and disrespect for their ancestors and traditions and would exercise their influence to prevent this. The relationship between religions turns into a relationship between shame and honor; in other words, it turns from a

dialogue into a moral relationship, imposing a denigrating moral label on the other. Not only does this labelling block interfaith dialogue at the individual level and beyond, but, according to Fuga, it replaces argumentative debate with the process of stigmatizing the other morally, psychologically and socially, thus creating the conditions for interfaith dialogue to turn into a frozen relationship and to strengthen the boundaries of spiritual community through psychological pressure, paving the way for communitarian tendencies, and, finally, drawing lines on which a certain social conflict can be built (Fuga 2006).

All of these are gradual steps and nuances that begin with religious and cultural differences, which constitute an invaluable social asset for our society and if not properly understood, they can gradually lead to a fragmentation that might not only prepare the conditions for a social conflict, but also begins to show signs of opposition to individual rights within a state governed by the rule of law.

From the philosophical point of view, as many western philosophers such as the American philosopher Richard Rorty or the Italian culturologist Umberto Eco argue, the bridges of interfaith dialogue can be built on sound foundations only if we accept that reading any type of text or written moral order, therefore, including the sacred ones, as well as the classical philosophical books, the laws or any norm codified according to various discourse parameters, allows room for different interpretations.

If we were to put it in philosophical terms, every text allows for more or less wide space and serves as a pretext for different interpretations.

Without taking the position of a sick methodological relativism, which dispels all references, from the philosophical perspective today it is unquestionable that even moral values, religious teachings, and different texts, faithfully maintaining their origin and absolute values, contain a prominent interpretative dimension depending on time, concrete conditions, as well as special and new circumstances brought by time and social development.

If we consider the situation from a broader international perspective, we shall see that within all kinds of beliefs, the discussions and debates are not about the interpretation of theological bases, but about their application regarding social problems such as political systems and relations or problems related to contemporary situations such as wars, peace, family planning, diseases such as AIDS, the way some life acts such as marriage and family are performed, the ways of constructing religious symbols in the form of clothing or other characteristic signs, the child-parent relationships, etc.

Interreligious dialogue is not just an intra-religious phenomenon. It also includes an understandable and quite natural debate between believers and nonbelievers, secular people and atheists, it is about problems related to understanding the world, the society and man himself. Neither science nor philosophy can claim that they possess the exclusivity of accurately treating these problems just because they can be only interpretative judgements. All these forms of thinking and constructing spiritual values aim to create the conditions of peace, understanding and consolidation of man's position in the world and his preparation to face challenges related to life or even to death. This role belongs to religious leaders.

We must not forget that from a philosophical-religious point of view, religion and science are no longer conceived as separate and hostile to each other, but as two different complementary registers of understanding the world, and as two complementary ways of reading man and the world.

As they say in their writings, statements and interviews, as sociological research shows, or based on what we read about statements of religious leaders or prominent theologians of today's world, despite their differences, religions have common features. Belief in mysticism, in the idea of the Almighty and in the immortality of the soul, and above all, insistence on preserving and consolidating moral values such as honesty, respect for the other, tolerance, forgiveness, and so on, which are all features of religions, constitute the basis for different religions as well as for

philosophers, journalists, sociologists, believers and nonbelievers, sceptics and even atheists, to create a wide space not only for sound dialogue but also for cooperation and deep understanding.

As prominent theologians of our time or of the past point out, it is clear that cooperation and dialogue do not exclude or infringe on the loyalty of any believer, clergyman, philosopher, scientist or ordinary citizen to the principles of his religion. It is not, therefore, a matter of erasing differences in beliefs, for this would create a very sad and uniform world; it is a matter of that great principle which various personalities have explained so well; in other words, it is a matter of dialogue with the other, of finding common ground in the differences in the perception of the world and mysticism, of cooperation between differences in perspectives, of a public opinion space, where everyone, while fanatically preserving the principles of his particular worldview, knows how to find in the other the points that unite them in a unique whole, which appears to them in different forms.

Albanian society, especially its massive school learning system, has much to do in order to break from the misunderstood and overly vulgarized materialism, especially of the years 1945–1990. There is a wide field of cooperation even between different faiths for the sake of the moral soundness of our society.

Interfaith dialogue, like any other form of social dialogue, is damaged if its participants are completely isolated within their system of values and their own worldview. Prominent thinkers in the field of philosophy, anthropology and communication such as Gregory Bateson of the Paolo Alto School in California, state that any individual or community isolated within the realm of its own values becomes incapable of understanding the other, and furthermore, loses the ability to understand himself because he “judges himself according to himself”, while it is well-known that the best self-knowledge is acquired through the other.

In this way, as French philosopher Jacques Derrida put it, the other, openness to the other, and the attempt to accept and understand the other, are a condition for possibility to understand oneself. The self is understood through the other. Respecting and maintaining a dialogue with each other, in the sense of an individual or a group adhering to other religious and cultural beliefs and values is the main means of not being locked within inclusive cultural obsession, which would then cause another total disorder of anyone’s relationship with the world and with himself. Data show that religious discussions occupy a balanced place in other debates among Albanians. About 16.43% of respondents report that the topic of daily conversations with other believers of the same religion is one of a predominantly religious nature (Fuga 2006).

Seen in this light, it is considered important that individuals of different religions generally live in mixed social, professional and neighborly spaces, which is also a product of the entire history of our people.

On the other hand, though, in some peripheral areas with large urban centers, due to massive and somewhat accelerated exodus, there are gatherings of people, families and individuals with kinship and regional ties, and consequently, with a common identity of faiths. Participants in the survey respond that as a result of recent demographic changes they live closer than before to believers of the same religion.

While 23.85% of the respondents living in such urban peripheral areas reported living closer than before to believers of the same religion, only 19.05% of the respondents living in urban centers report a similar situation (Fuga 2006). In order not to isolate citizens within somehow homogeneous symbolic spaces and to facilitate horizontal dialogue between them, even of a religious nature or topic, it is time specialized bodies took into account this primary data in their framework of territory administration and regulation policies.

Analysis of opinions of participants in the 2010 study *Road to interfaith dialogue in Albania*, revealed that interreligious relationships are at a satisfactory level; the level of conflict appears low and the prospect is not pessimistic. It should be noted that only 5.17% of the respondents report that relationships between religions in Albania are conflicting, while 54.01% of the respondents claim that today’s interfaith relations in Albania are tolerant. The rest of the

respondents are less optimistic than the latter, but in all cases, they do not fail to emphasize that for them Albanian society is not currently endangered by any particular religious conflict (Gjoka 2010, 87).

Thus, 28.64 % of the respondents of Muslim faith report the existence of interfaith cooperation, while Catholic and Orthodox believers report a lower level of such cooperation. Only 24.39 % of Catholic respondents and 20.79 % of Orthodox respondents report that interfaith cooperation exists. When asked if various religious symbols (crosses, monuments, clergyman busts, etc.) can be placed in public spaces such as streets, schools or squares, without causing religious disagreements, 64.87 % of the respondents stated that such a thing would lead to conflicts (Gjoka 2010, 88).

According to researcher Rasim Gjoka, conflicting tendencies in the field of interfaith relations, whether open or hidden, should not be overestimated, neither should they be overlooked. It would be more appropriate to identify and find contemporary forms and mechanisms for their peaceful treatment and resolution (Gjoka 2010, 99).

Many authors such as Çelebiu, Shuflaj, Arnoldi, Delvina, Xhelili, Thëngjilli, Fuga, Dervishi, Sinani, Rama, Lubonja, Frashëri, Hysi, Çami, and Kruja have written about the important phenomenon of interfaith tolerance and harmony. From research on this fundamental phenomenon, we can single out a quote from J. Barns, who writes:

“A tolerance to be envied characterizes the relationships between Muslims and Christians in Albania in all other respects” (Hysi 2006, 228).

Conclusions

The rapid development of modern civilization at unprecedented rate has transformed it into a plurality and a community of civilizations. Contrary to what has happened throughout the human history, civilizations do not surpass one another; they coexist and interact with one another. Herein lies the power of modern civilization. In such circumstances, it should not be forgotten that dialogue is a characteristic and an internal need of every civilization. The duty of people and scientific, cultural, artistic, religious, and especially, political institutions, is not only to avoid suppression of this natural tendency of true civilizations but to leave free space for such an essential characteristic of every civilization to unfold.

Multi-religious societies such as ours have the beauty of a variety of subcultures, faiths and rituals, which come from the depths of history, but which also carry the risk of sectarian divisions which can take different forms and degrees of sharpness.

Renowned authors in the humanities and philosophy have long addressed this problem. Life experience shows that in almost no case do conflicts between believers of different religions have a religious origin or basis (Dervishi 2004, 198).

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Familicide: Psychological and Social Characteristics of the Aggressors. A Case Study

Andrei Armeanu

Lawyer, "Al.I. Cuza" University Iași, Romania, andrei_armeanu@yahoo.co.uk

ABSTRACT: Generic defined as a multiple-victim homicide incident in which the killer's spouse and one or more children are slain, familicide is an atypical crime, with little incidence compared to other acts of domestic violence. In the present article, we will list several psychological and social features identified in the literature as common to aggressors in familicide cases. Given the fact that familicide acts are almost exclusively committed by men, we will assume that the aggressor is a man and the victim a woman. We will analyze data on the age, social status of the author and the victim, and their relationships. We will also analyze the contextual factors, the characteristics of the crime (*modus operandi*, premeditation, place of the deed), and the prevalence of mental health problems, relationship problems, and financial difficulties. As the scientific literature on the topic is relatively scarce, due to the low number of cases and the fact that access to relevant information is often restricted because of the confidentiality of legal and health documents, we will carry out a case study of a familicide that took place in Romania in 2018, focusing on the analysis of motivational factors and the pre-existing conditions, without claim of a comprehensive conclusion.

KEYWORDS: familicide, domestic violence, abusive relationship, substance abuse, forensic psychology

Introduction

Familicide is defined as one family member who murders other members of their family, commonly taking the lives of all. It is most often used to describe cases where a parent usually the father kills his wife and children and then himself. Familicides are horrifying acts that can wipe out an entire family, often leaving relatives, friends and colleagues stunned and confused. Usually, no outward signs are visible to suggest the imminent danger of such a horrific action taking place.

Most researchers agree that familicide is a form of mass murder, due to the multiple victims involved. It is a crime that has invoked horror and fascination in equal measures and is commonly intertwined with the term "family annihilation". Furthermore, in most cases, the killer takes his own life after the act, leaving no opportunity to find out why he committed the crime and whether or not this was a premeditated planned murder, or an act which was spontaneous.

Criminologists have been conducting increasing research into the phenomenon of familicide, and in the process have produced many terms and definitions to describe such acts, varying from "familicide", "family annihilation", "murder-suicide" and "family murders". These are all terms, which have been used to describe cases where a family member has killed other family members, and the varied definitions of the term familicide can make a comparison of studies in cases challenging.

Familicide sits among several types of family murder all utilizing the term "*cide*" which means the "*act of killing*" in Latin, often adding to the confusion over terminology.

Such examples are "*matricide*" the killing of one's mother, "*patricide*" the killing of one's father, "*siblicide*" side the killing of one sibling, "*fratricide*" the killing of one's brother, "*sororicide*" the killing of one's sister, "*filicide*" the killing of one's child, "*uxoricide*" the killing of one's wife and "*parricide*" the killing of one's parents.

The psychological profile of the family annihilator and the prevalence of male family annihilators

A research study published in the "Howard Journal of Criminal Justice" in 2013 (Yardley, Wilson and Lynes 2014) has been particularly influential in this field. They analysed newspaper articles over three decades, from 1980 to 2012, where cases of familicide were reported, and found a total of 71 cases, where 59 of the perpetrators were male and over half were between the ages of 30 to 40 years old when they committed the crime.

Also, they reported that 57% of cases they studied occurred inside the family home, compared to 17% in an isolated country spot, no doubt pre-selected by the offender. In 32% of cases, the method of killing was stabbing, followed by 50% of cases involving carbon monoxide poisoning from car exhaust. Most offenders were employed and aged between 30 and 39 years old at the time of the murders, and in 68% of cases, the male annihilator committed suicide after the murders.

Professor Wilson has stated that family annihilators "have received little attention as a separate category of killer" and they are "often treated like spree or serial murderers of you which presupposes traits such as the idea that the murderer snaps or that after killing their partner or children the killer may force a stand-off with the police, which is not an entirely accurate representation of these killers". In contrast to other groups such as serial killers or mass murderers, these were found to be individuals with good backgrounds. They were not known to the police or the criminal justice system. They often had good jobs, families and friends around them. They can be very successful people in their lives and not the kind of person who it is perceived would kill anyone, never mind their entire family (Wilson 1995). As highlighted by Jack Levin, professor of sociology and criminology Emeritus at North-Eastern University in Boston, the profile of a man who kills his family is a middle-aged man, a good provider who would appear to neighbors to be a dedicated husband and a devoted father (Levin 2011).

Researchers also identified four common areas, which may be the causes of such family murders: a breakdown in the family relationship and issues surrounding access to children, money worries and financial hardship, cultural honor killings, and mental illness. These findings echoed the conclusions drawn from a 2009 study (Liem, Levin, Holland, Fox) which examined various cases of familicide in USA (2000–2009). They found that social loss, economic reasons, mental illness, and partner loss were the most common likely causes of murder-suicide within the family.

Other literature reviews carried out into familicide also provide some key points when focusing on the profile of the family annihilator (Léveillé, Marleau, Dubé 2007). Some psychologists found aggressors to be predominantly male and in a long-term relationship with possessive tendencies over his family. Employment issues, problems with substance misuse, and a history of domestic violence also featured across the cases she studied. Also, divorce or separation was found to be a trigger point.

In 2017 researchers from the Tampere University of Finland examined the background factors that may be involved in familicide cases in Western countries (Aho, Remahl, A., Paavilainen 2017). They found familicide offenders were mostly highly educated men with psychological problems, depression, self-destructiveness, and substance abuse issues. Past violent behavior and unsteady social relationships were also prevalent.

Researchers have focused on any link between borderline personality disorder and familicide and while some evidence was found, that could conclude a causal link, in such a rare crime it is difficult to draw any solid conclusions as to the role of such mental disorders within this crime (Liem, Koenraadt 2008). Mental health is often discussed in these cases with an assumption of the disordered mental state from the father who has decided to kill all members of his immediate family.

In Léveillé's 2007 study they found that 68% of those who killed their family had a history of depressive symptoms and 38% showed borderline traits for personality disorder.

It's not to be ignored that in an estimated 95% of familicide cases the perpetrator was male and the head of the household. This traditional idea of the man providing for and looking after his family may become a factor, when he no longer feels he is meeting this role adequately or his finances and employment breaks down.

Another key factor in these types of killings appears to be rage from the male when he feels he has been wronged by his partner, whether this is due to the partnership breaking down, an affair in the marriage, and or difficulties surrounding access to the children. There can also be a revenge aspect, where the killer leaves the mother alive to suffer, after he takes the lives of her children.

However, this is by far not the main reason as perceived by some for this type of murder. Research into family annihilators is still in its infancy. The rarity of cases coupled with most killers taking their own lives does not allow for research to take place into this phenomenon easily.

For other authors (Websdale 2009) the idea of the male societal role and no longer meeting that role is a common trait among family annihilators. Websdale follows the more traditional view of the reasons behind male father figures killing their families being rage, revenge, and altruism. He has categorized such family killers into two groups. The first one "the livid coercive killer" is motivated by anger and rage. They show control issues and may have abusive tendencies, achieving their self-worth by exerting authority within the home. Should this marriage begin to fail, maybe because of such controlling issues, and the wife and children try to leave, a lack of control and feelings of humiliation could prompt such acts of violence against his family. The second type, "the civil reputable killer" in contrast is motivated by altruism where his identity is wrapped up in his family. Murdering all family members is there for a while way of saving them from the hardship and shame of financial troubles and bankruptcy, and they will almost always commit suicide afterward. If suicide after the act fails, in most cases which get to court the perpetrator will almost always plead some form of insanity as a defense.

However, not all believe this is an adequate explanation for such acts. As in all types of mass murder, there are different motivations and different methods of murder.

In a more recent study, a team of researchers (Karlsson et al. 2019) carried out a comprehensive literature review within the peer-reviewed research published on familicide. They examined 63 research papers covering 67 studies from 18 countries that were published between 1980 and 2017, including familicide cases where the offender killed their current or former partner and at least one child. In almost all cases the offender was male, and in around 50% of the cases the offender committed suicide after the murders. Problems in mental health, relationships, and physical health were frequently noted across the cases studied. In most cases studied the offender lived in the same household with all of the victims and in agreements with previous studies problems in the relationship, a breakup and financial problems were prevalent within the families involved.

Within this literature review, two types of familicide emerged. First, we mention the despondent type: the despaired defender who kills as an extended suicide. This offender kills the family due to pseudo altruistic reasons. Second, we mention the hostile type: the jealous offender who is motivated to kill their family out of jealousy and revenge. The primary victim of this offender is usually the spouse. Both types, it was concluded, have a sense of ownership over their family, although they have different motives for the murders. The despondent offender possibly believes the family will not hope without him if he just kills himself. The Hostile offender is motivated by jealousy and may believe he has the control and can make such a decision for the entire family.

In the Yardley, Wilson and Lynes research, they looked at cases over a span of 30 years and groped their case studies into four categories looking at the motives behind the killings. Cases may not be straightforward in terms of falling into one of these categories exclusively, and as a result, it is common for male annihilators to fall into multiple categories, something which needs to be examined case-by-case. The "*self-righteous killers*" are individuals usually fathers who place blame on others for their actions. They often blame the mother of their children for being the cause of the family breakup or for preventing him from having access to his children. They see themselves as the provider of the family and if they are unable to meet that role they can enter dangerous territory. Often they are looking to cause pain and suffering to their partner or ex-partner and can use their children to do these fathers who fall into this category can kill their children and leave the mother alive to ensure maximum pain and suffering. As they blame the mother they can often make contact just before they commit the murders to tell her what they are about to do, knowing there is nothing she can do to stop it. The "*disappointed killers*" are people who believe they have been let down by

those around them most often their partner and their children. They often may believe that the members of the family are not good enough, or they're not meeting his standards or beliefs. Some cases of honour killings can fall into this category, where the father may be unhappy with his children's choices and do not feel they are being true to their cultural and traditional religious customs. The "anomic killers" are individuals that perceive the family as an extension of their economic success in life. Should any part of that economic status breakdown, for example a job loss or financial hardship, their family no longer serves this function and thus must be annihilated. The "paranoid killers" are individuals that often believe their family and especially their children are under some form of threat or they need protection against certain external factors. In these cases, they kill as to protect the family from the perceived outside threat.

These categories often overlap and are still being developed and refined for categorizing cases of familicide. Unfortunately, this means this kind of crime and the death of entire families will continue to happen and it is a phenomenon which has proved difficult to put it almost impossible to stop.

The 2018 Braşov City family murder case presentation

At the end of March 2018, around 13:30 hours, a 43-year-old man presented himself at the headquarters of the Braşov County Police Inspectorate (IPJ BV), saying he had killed his wife and his two children, an 18-year-old girl and a 13-year-old boy. The man, called FB, had blood on his clothes when he arrived at the Police to testify the murder. FB said he killed his family while they slept at their own house, located in a new neighborhood of Braşov. This was the first widely publicized family murder case in the Romanian media.

As the case is relatively recent, and the final conviction of FB occurred about a year ago, we chose to anonymize the names of the people involved. Also, we mention that this is a case presentation, as it is pictured in the public sources of information available and does not have the character of a psychological assessment of the persons involved.

After handing himself over to the Braşov Police, the FB offered all details of the crime to the investigators. He killed his wife first and then put a pot of white flowers on her chest, which he had bought from the town earlier. At the same time, SB, his 13-year-old son, was in the next room and was playing on the computer. IB, his daughter, was not at home at the time, being in town with friends. FB called her home, and after the girl fell asleep, he killed her with eight knife strokes. Then FB went to the boy's room, which she stabbed with three blows and left the crime weapon on his bed.

FB told investigators that he does not regret his action because the three victims are now "angels" in a better world. Later the police found cannabis in his car, and stated that FB was under the influence of drugs when the crime was committed.

On the day of the crime FB went to work, as he did every day. Then, at noon he went to an old Monastery where he stayed 45 minutes, prayed and attended a lecture by a nun. According to the case prosecutor "on the return road at some point, he stopped on the side and, on the grounds that he had a revelation, an inner view of the sins he might have committed throughout his life, he claims he tried to kill himself with a hunting knife he had in his car and which he had infused in his heart area. But he failed, and then continued the road to Braşov" (Robu 2018).

On his way home he stopped in the old center of Braşov where he bought a white flower and a box of chocolate. He arrived home at night around 21:30 and told his wife that he wanted to kill himself. The woman didn't believe him. According to FB's statements "they had a Tesla bio-resonance appliance in the house, and a massage table that he was holding in the matrimonial bedroom. They both connected to the device, and then he offered his wife a massage. He sat there, waited for her to fall asleep, and at about 23:00, stabbed her in the heart area with three knife strokes, the same knife he stabbed himself with". After he killed her, he prayed for her, covered her with a blanket, and put the white flower on her chest. IB, the 18-year-old daughter, was in town with friends, and the man called her to see when she will come home. IB came before midnight, and after having

talked a little to her father, went straight to bed without knowing that her mother was dead. Half an hour later, the father went to the IB's room and killed her with the same knife, stabbing her eight times in his chest. Then he went to SB's room and stabbed him three times.

After praying for the three he killed in cold blood, FB went to his firm headquarters and stayed there until morning. He then called his cousin in Bucharest and told him what he did, but he didn't believe him. Later, FB called a friend, who didn't believe him initially, but advised him to turn himself in to the police.

At 13:00 hours, FB came to the Brasov police headquarters and denounced himself, still wearing blood-dirty clothes. After the initial hearing of FB, the investigators reached the conclusion "that he does not regret the facts, because he was convinced that he had done them a good thing".

According to the case prosecutor "considering the motivation he presents for committing the acts, although he claims he has no psychiatric problems and he has never been admitted for specialized treatment for psychiatric disorders, an (psychiatric) examination of him will be ordered at the 'Mina Minovici' legal Medical Institute in Bucharest". Also, FB stated that after killing each of his victims, he would have communicated that, "telepathically" with their souls and he believes all is good for them (Dobrescu 2018).

Similar to other familicide cases, few elements of FB's biography, before the triple murder, could announce the tragedy. FB, was a 43 year old man, had a university education and was not known as a violent person. Prior to the murder there have never been complaints of domestic violence related to the killer. Also money were not an issue in the family either. The two spouses had a natural products store, FB was the company's manager, and the wife was keeping the accounts. FB was an engineer and the employees of the company he was managing said he was a Christian - Orthodox (Suciu 2018).

The people were shocked to find out the news and say the man understood well with his wife, they didn't know of fights in the family. After the murders it was found out that, while FB claimed the company was prosperous and made profits, the company lacked about 100000 dollars. The investigators found that the money was taken by FB, either in the form of products it sold, but whose value was not paid in the accounts or simply took from the accounts.

During the hearings, the FB made shocking confessions. He told the police that he believed in reincarnation and multiple lives. Moreover, the man confessed that he had communicated by telepathy with the two children he killed, and they would have told him that "they are better there". Also, the aggressor said he had talked to both his wife and his children while he killed them and until they gave their last breath. Daniel Danca, the spokesman for the Prosecutor's Office at the Braşov Prosecutor Office, said the man had an increased psychological lability. In the same context, the prosecutor said that the FB "motivated the deed by the belief that it facilitated access for its family members to a better world where they were more peaceful" (Dobrescu 2018).

But beyond his statements, the most shocking information comes from the journal kept by FB, discovered by investigators. In this diary, the man described his unrest ahead of the triple crime. Investigators found in the agenda, titled "Testament", evidence that man had great problems: alcohol addiction and an unfortunate marriage, to which he found no other solution than the assassination (Burcoiu 2018).

"Today Stefan, Monica, and Ioana went to God. Their soul is easy! Good heavens! They left before me, I would have gone, but God did not let me, the knife went all the way, but I did not die physically". FB wrote these words in his diary shortly after having slaughtered his wife and children. A week and a half before the assassinated triple he noted that he felt worse: "Seven days ago I went through an episode that can be labelled madness". Psychotherapist Constantin Cornea considered that these psychological episodes "can be the result of drugs" but "we can also talk about some dramas that led to a form of psychosis". Analysis of the "Testament" clearly showed that the man was growing in dismay. As the days passed, his writing betrayed the agitation, and he himself became confused: "Today is an important day, it seems. (...) I don't know where I am ...". The whirl of fragmented ideas and criminal thoughts was doubled by philosophical considerations: "On Earth, nobody ever understands anyone, the words thrown out are very often difficult, even in

the family. Families are broken (...) nothing is worth”. Finally, at the end of the agenda, prosecutors learned why he called his notes “Testament”: “why did I call my letter in this way? The will (...) when the man feels that his time has come, if he has a little consciousness, he will think about what he leaves behind him”.

The FB case has generated a lively controversy in the forensic and psychological legal circles in Romania. On one hand, FB was characterized by psychiatrist Gabriel Diaconu as a pervert manipulator, who is a chronic psychopath that secured an alibi for himself, by going to the monastery. Gabriel Diaconu rejected the idea of a religious-motivated crime. In his opinion, the FB “had an old internal psychological problem, around chronic aggression and frustration that was fed and which eventually reached a critical threshold. What could have triggered the threshold we have in today’s press. That he was no longer successful, that he had problems with chronic drinking, his relationship was no longer satisfactory to him”. Another well-known Romanian specialist, criminal psychologist Tudorel Butoi, said that FB showed extreme behavior, similar to other family-annihilation cases, followed by suicide. “As for this regrettable case”, noted Tudorel Butoi “there must be an external causal link, translated into economic shortcomings, into this despair of the human element, driven by frustration, anxiety, or depression. There can be revenge, but also jealousy” (Dobrescu 2018).

Before being sentenced to life imprisonment for the crime committed, FB has claimed in court that “I have been led by less worldly reasoning” and an attempt to explain the reason for killing his family would be similar to “trying to show the colour of a lemon to a blind man” (Dobrescu 2018).

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Ethical and Behavioral Standards in Online Communities

Kristine Kirst

PhD student, Grand Canyon University, USA, kkirst1z88@gmail.com

ABSTRACT: The term “community” once meant a group of people living together in a local neighborhood or perhaps it meant a group of people that met at a certain time and place to talk and enjoy each other’s company. However, the world has grown smaller as technology has advanced, and people are now reaching out via technology and the virtual world to build worthwhile connections. This has given rise to the popularity of online communities. Online communities are formed by people from all different backgrounds who share a common interest or goal (Johnson 2014). Any person can be a part of any community, even if they have never met in person. This link is a blessing and a curse because, while it brings people together, it also brings together their geographical, socioeconomical and even cultural backgrounds. Differences in these can clash and wreak havoc on the sustainability of the online community if guidelines are not outlined. Therefore, the purpose of this paper is to reveal a rationale for ethical and behavioral standards for online communities as well as an overview of how my personal worldview influences said rationale. It will also include a set of standards so both management and participants can ensure a respectful and beneficial community experience.

KEYWORDS: online community, rules, behavioral standards, ethical values

Rationale for Ethical and Behavioral Standards

Whether an extension of a business or a stand-alone entity focusing on a certain topic, online communities are a popular way to exchange information in the digital landscape (Bapna, Benner, & Qiu 2019). Online communities evolved from chat rooms and forums that were easily self-contained to stand alone web pages and groups created on social media platforms. In turn, this has changed how word-of-mouth information is spread across the Internet.

From Facebook to YouTube to Pinterest, there are a number of different digital platforms available online, and each offer online communities, or groups, where users can contribute information, ask questions, etc., based on the groups’ interest category. Facebook and YouTube are the most widely used (Perrin & Anderson 2019); however, newer platforms such as TikTok are slowly gaining ground. These platforms are a crucial aspect to developing and sustaining online communities as they are the building blocks that support online social interactions (Spagnoletti, Resca, & Lee 2015). However, their formation and foundation can be heavily influenced by assumptions derived from their creator’s ethics, morality and values -- i.e., their personal worldview.

Personal Worldview

My personal worldview is simple. I value my worth and the worth of others based on trust and understanding. I remain authentic to who I am and what I believe. It is hard enough to navigate in this technology-driven world where bullying, fat-shaming, and other negative behavior seems to thrive. I will not contribute to that because that is not how God sees me, or anyone. God has plans for me based on the way he designed me, and anything else is just noise.

As for ethical values, I identify more with the “Golden Mean” first posited by Aristotle. I am empathetic by nature and tend to mediate any situation by listening to all sides of an issue and taking time to digest and discern the meaning of each side before I respond.

Proposed Standards for Management

Every community needs rules and guidelines for what is acceptable behavior and activity on their platform. Developing these before launch will clearly define what is allowed and encouraged, as well as frowned upon, forbidden, and what could lead to ejection.

The four crucial standards that management should start with are:

- 1) Privacy;
- 2) Accuracy;
- 3) Property, and
- 4) Accessibility.

In this digital age, concerns about privacy are one of the contributing factors whether someone will participate in an online community (Pan, Wan, Fan, Liu, & Archer 2017). Management should ponder questions about privacy, such as: “What information is required and under what circumstances?” and “What safeguards are put in place to ensure the data is secure?” Answering these questions ahead of time will install a set of rules clearly explained that users must accept before allowing to participate within the community.

An online community will not flourish if its reputation is tainted due to false content. Therefore, accuracy is vital because an organization is only as good as the information it disseminates to participants. To combat this, management must identify certain personnel to monitor and delete user-generated content deemed unacceptable or unverifiable (Kim, Moravec, & Dennis 2019).

Online communities are built to share content in a digital environment, but who owns what information? Management should set clear guidelines regarding property management, so when the lines are blurred (or crossed), there is a clear understanding of the consequence. In this way, the organization is “steering” users toward proper and legal interactions (Reischauer & Mair 2018).

Digital technology has advanced user connectivity; however, there are still drawbacks for those with unique needs. For example, any videos where people are speaking is useless for the hearing impaired unless captions are included. Ng and Schofield (2017) posit that adaptive and universal design approaches with forms, font sizes, and alt. text are necessary (and sometimes legally required) to ensure a worthwhile experience for users with disabilities.

Proposed Standards for Participants

The general term “netiquette” is applicable when describing how to “behave” in an online environment. Therefore, it is important to understand the “culture” of the online community one is looking to join. This includes:

- 1) Respecting the rules of the community;
- 2) Respecting others in the community;
- 3) Practicing self-regulation; and
- 4) Engaging with others.

First, respect the rules of the community. Management has set the rules as a way to ensure civil behavior and conform to certain legal standards. Also, people join the community to contribute to and benefit from the interaction (Johnson 2014). Frequent disregard for the rules will likely backfire, resulting in negative feedback and the likelihood of being banned from the community.

Second, respect others within the community. The term “agree to disagree” applies in this instance. People generally do not join a community to be bullied or hated upon; they are looking

to be uplifted, inspired and educated. Those that are antagonists online (a.k.a. trolls), can have lasting impacts on others and are not acting on consensus of good faith (Asprey 2019).

Third, practice self-regulation. This means be as authentic online as in person. It may seem enticing to create a fake profile as a version of the self one wishes to be; however, this could create a discrepancy between the ideal self and the ought self, resulting in greater psychological discomforts (Huang, Zhao, & Hu 2019).

Finally, engage with others. There is an implied give-and-take scenario when engaging online. If one is only taking, they are not offering anything worth contributing to other members. An online environment is only sustainable through user-generated content; therefore, the more contributed, the more likely the community will continue to be a worthwhile source (Bapna, Benner, & Qiu 2019).

Conclusion

Online communities can be developed with or without much forethought; however, it is wise to discuss and establish ethical and behavioral standards ahead of time in order to better facilitate and sustain any online community. These standards should cover both the management and participant side of the platform and will differ depending on who is chosen to manage and who decides to participate; but overall, they will help all parties maintain proper decorum and respect within said community. It will also help reinforce discipline for disruptive or uncooperative members.

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