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Artificial Intelligence and Big Data in the Age of COVID-19

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ABSTRACT: The view that the COVID-19 pandemic has set in motion profound changes in our modern societies is practically unanimous. The global effort to contain, cure, and eradicate COVID-19 has been greatly benefited by the use, development and/or adaptation of technological tools for mass surveillance based on artificial intelligence and robotics systems. The management of the COVID-19 pandemic yet has also revealed many shortcomings generated from the need to make decisions "in extremis". Systematic lockdowns of entire populations pushed humans to increase exposure to digital devices in order to achieve some sort of social connection. Some nations with the capable technology development used AI systems to access individual digital data in order to control and contain the SARS-CoV-2. Massive surveillance of entire populations is now possible. In this way, the problem arises of how to establish an adequate balance and control between the utility and the results offered by mass surveillance systems based on artificial intelligence and robotics in the fight against COVID-19 on the one hand, and the protection of personal and collective fundamental rights and freedoms, on the other.

KEYWORDS: Artificial Intelligence, AI, Anti-Discrimination, Big Data, COVID-19, COVID Long Haulers, Democratization of Healthcare Information, Digitalization, Healthcare, Human Rights, Massive Surveillance, Prevention, Tracking

Introduction

Breakthroughs in technological developments in the last decade triggered a digital revolution with palpable consequences in our daily lives. The World Wide Web became a colossal source of data storage that sees and remembers everything. Humans' dependency on technology devices is so profound that fusion with machines becomes inevitable. This fusion turns into a footprint trail that everyone of us leaves behind, most of the time, unnoticingly. Smartphones, Internet of things, transit and transportation automatization, e-commerce, all this has made us bionic humans. Some may even say cyborgs. A milestone in triggering or speeding up the digital revolution was the disruption of Artificial Intelligence (AI)'s deep learning, i.e., the possibility to create a software capable to learn like a human but much faster and more effectively. AI became of widespread use in nearly all parts of our daily life activities, and by the great majority of governmental agencies and private companies.

The COVID-19 pandemic accelerated human fusion with machines. Systematic lockdowns of entire populations pushed humans to increased exposure to digital devices in order to achieve some sort of social connection. Some nations with the capable technology development used AI systems to access individual digital data in order to control and contain the SARS-CoV-2. Massive surveillance of entire populations is now possible. The possibility for people's massive surveillance via AI raises profound questions regarding the rule of law,

democracy and human rights. A new state-police model based on massive surveillance challenges the very roots of our criminal law systems, eroding the distinction between criminal offences and antisocial behavior.

Building on the first introduction of a constant predicament between dignity in privacy and value in information sharing, this article applies an ethical and legal analytic frame to debrief on pandemic emergencies and global health as unprecedented challenges for modern humankind. Human rights are a powerful tool we can use to control people's massive surveillance. However, existing universal and domestic legal standards seem inadequate to address the complexities of the digital revolution. New regulation approaches become necessary. We need to develop new rights protection measures enforceable according to the characteristics of this new digital era. Market solutions – such as monitoring and tracking of medical devices and search engine results – coupled with anti-discrimination efforts in the medical tracking domain, appear necessary to imbue an ethical notion in capitalism in the healthcare domain in the digital age. The most novel trend of COVID-19 Long Haulers sharing information freely online as a quick remedy when clinics all over the world are overflowing points of contact with potential diseases is discussed in light of privacy concerns and online manipulation threats of a particularly vulnerable populations.

AI Systems and the digital footprint trail

Artificial Intelligence (AI) allows the development of computer systems capable of emulating and carrying out activities typical of human beings, such as perceiving, reasoning, learning and solving problems. The aim of an AI system is to perform tasks or solve problems with results similar or superior to human qualifications and performance (Independent High-Level Expert Group on Artificial Intelligence 2019). From social aspects, such as solving legal conflicts, operating the financial system, monitoring human activity, or navigating cars, ships or aircraft, to individual aspects such as financial management councils or music, film or video selection, the AI systems that coexist in our societies can perform different tasks or functions that were once carried out only by human beings (De Asís Roig 2018). AI has transpired all sorts and tasks of modern life (Chace 2016; Kasparov 2018). Contrary to previous mechanical revolutions, the AI revolution nowadays competes with human over cognitive tasks (Harari 2018).

A great qualitative and quantitative leap in the development and use of algorithms has occurred in the last two decades, in which computers have exponentially multiplied their capacity to process data. The total interconnection was exacerbated through the Internet, which allows the constant collection of massive amounts of data, which get amalgamated into 'big data' (Hawkins 2018). Currently algorithms have already achieved the unthinkable learn-and-improve capacities of human minds, which is referred to as "machine learning" (Domingos 2018).

With the rise of Internet companies, such as Facebook and Twitter, and the popularity of smart devices, we have become familiar with constant posting and leaving a trace of our relationship statuses, comments, preferences and locations. All this information is collected in real-time and stored as data that can then be analyzed. Because we can discover valuable insights from such data, we are likely to see the trend continue, with innovations in capturing data from sources we had not previously thought of as information trackers (Mayer-Schönberger & Cukier 2013). With the advent and massification of so-called social networks – personal portals where people constantly register and consult information from their social environments – big data became one of the most valuable assets in the modern world. This trend is part of the process of constant datafication – capturing information about the world as data.

The availability and use of big data have also generated notable repercussions in recent years (Bartlett 2018; Smith & Telang 2017; Stephens-Davidowitz 2018; Frank, Roehring & Pring 2017). Probably the first clue to the existence of big data were so-called Internet searches. Suddenly the entire world began to use the search engine *en masse*, imposing a verb to describe

this action in 'to google' something. Now googling, beyond its usefulness, leaves a trace of our digital activity. That trace can then be associated with a specific person or be subject to transformation into information of marketable value, such as to know his/her wishes or preferences right-on-time (Gilder 2018). The modern "AI system" is referred to as self-sufficient programs made up of a complex web of algorithms that are constantly fed by big data. Algorithms are the DNA of AI systems, and big data is the energy that enables them to grow, develop and perform.

Massive Surveillance in the age of COVID-19

The novel Coronavirus COVID-19 started at the end of 2019, when it was first diagnosed in China. To this day, there are over 230 million reported infections with COVID-19 and almost 5 million deaths reported around the world (Worldometer 2021).

In regards to AI and big data, the COVID-19 pandemic has set in motion profound changes in our modern societies. The high contagion and rapid transmission of the pandemic has forced us to make decisions and implement substantial lifestyle shifts. Global priorities in the fight against COVID-19 have been mainly focused on containing the epidemic, protecting and curing the sick but also developing biotechnology to combat, and preferably eradicate, this deadly virus.

The global effort to contain, cure, and eradicate COVID-19 has been greatly benefited by the use, development and/or adaptation of technological tools for mass surveillance based on AI and big data insights. To a greater or lesser extent, all developed nations have declared health emergencies affecting the freedom of movement of people and products, and also, have implemented, in parallel, different mass surveillance tools to carry out the required social control.

AI systems in our daily lives can have serious consequences for social equality, democracy and even in the very nature of our species. In an article published in the Financial Times in 2020, Yuval Harari, highlights about the COVID-19 crisis "that the storm will pass, but the decisions we make now can change our lives for years to come," when considering the massive surveillance systems in place through smartphones and facial recognition cameras that constantly track and monitor society but also the new devices that are used to report body temperature and health condition real-time online. Through these tools, we now not only have the opportunity to quickly identify possible carriers of the virus but also monitor peoples' movements and possible infections but also their interactions, behavior and health status all time and all around. Harari (2020) points out the deployment of mass surveillance tools in countries that have so far rejected them, which represents a dramatic surveillance transition worldwide.

Not only government entities are using the power of big data driven surveillance. Shoshana Zuboff (2019) describes in The Age of Surveillance Capitalism how private businesses are collecting information about all aspects of the human experience that are turned into data and sold to a variety of businesses for a variety of reasons. Zuboff (2019) also warns that surveillance capitalists hope to identify key moments of sensitivity in order to increase the chances of purchase and modify behavior in line with behaviorism efforts.

AI was originally designed to be intelligent, but – as Stuart Russel (2020) concludes – the way we currently designing AI is not necessarily in humanity's best interests. The wish remains to control super-intelligent AI and harness its immense power to advance our civilization and not losing our autonomy at the whims of superior intelligence. We are also at the risk of losing humanity and certain human aspects that are not replicable by AI – such as leadership, empathy or creativity – when relying heavily on AI (Cremer 2020; Du Sautoy 2019). Effective control methods should be put in place on time (Domingos 2018; Gilder 2018; Hawking 2018).

Unregulated space and ethical predicaments of massive surveillance

Despite multiple effects, there are two core pillars of major legal impact on individual rights by AI systems and big data insights in the domain of equality and privacy. Equality gets infringed upon by prejudices arising from big data. Privacy concerns appear if personal information as a private property gets reaped by big data insights generating entities (Bariffi 2021).

Jammie Bartlett (2018) cautions that digital technology has brought undeniable benefits to humanity, but it also poses equally indisputable challenges to democracy – ranging from biases to totalitarian abuse of power. Problematic appears that algorithms were initially created to be neutral and fair by avoiding all-too-human biases and faulty logic. However, many of the algorithms used today, from the insurance market to the justice system, have incorporated the very prejudices and misconceptions of their designers. And since these algorithms operate on a massive scale, these biases lead to multiples of unfair decisions (O'Neill 2018). The impact of AI systems and big data mining companies on individual rights reveals discrimination in detriment to socially vulnerable groups such as gender, race, immigration status, or disability (Dertecnia; Raso & Hilligross 2018; Unboxing Artificial Intelligence: 10 steps to protect Human Rights 2019; Myers West, Whittaker & Crawford 2019).

Economics is concerned about utility. As one of the foundations of economics, utility theory captures people's preferences or values. The preference for communication is inherent in human beings as a distinct feature of humanity. Leaving a written legacy that can inform many generations to come is a humane-unique advancement of society. At the same time, however, privacy is a core human right and brings value to personal relations. People choose what information to share with whom and like to protect some parts of their selves. Protecting people's privacy is a codified virtue around the globe grounded in the wish to uphold individual dignity (Puaschunder 2021).

In the age of instant communication and social media big data storage and computational power; the need for understanding people's trade-off between utility in communication and dignity in privacy has leveraged to unprecedented momentum (Puaschunder 2019b). Today enormous data storage capacities and computational power in the e-big data era have created unforeseen opportunities for big data hoarding corporations to reap hidden benefits from individual's information sharing, which occurs bit-by-bit in small tranches over time (Puaschunder 2019a).

Behavioral economics describes human decision-making fallibility over time but has – to this day – not covered the problem of individuals' decision to share information about themselves in tranches on social media while big data administrators are able to reap a benefit from putting data together over time and reflecting the individual's information in relation to the big data of others (Puaschunder 2017a, b; Puaschunder 2021). The decision-making fallibility inherent in individuals having problems understanding the future impact of their current information sharing is introduced as hyper-hyperbolic discounting decision-making predicament (Puaschunder 2017a, b, c; 2019a, b).

Individuals lose control over their data without knowing what surplus value big data moguls can reap from the social media consumer-workers' information sharing, what information can be complied over time and what information this data can provide in relation to the general public's data in drawing inferences about the innocent individual information sharer (Puaschunder 2017a, b, c). In recent decades, big data derived personality cues have started been used for governance control purposes, such as border protection and tax compliance surveillance (Puaschunder 2021).

The COVID-19 healthcare crisis and pandemic emergency around the world has exacerbated governmental control of data for monitoring, tracking and preventive prediction purposes (Gelter & Puaschunder 2021; Puaschunder forthcoming; 2020a, b).

A growing body of contemporary findings reveals that an estimated 10-30% of those previously infected with COVID-19 face some kind of long-term health impact and/or chronic debilitation that in many cases comes and goes in waves (Hart 2021). These so-called COVID Long Haulers are estimated to account for up to 1.9 billion people worldwide after the end of the pandemic. Given the large number of possible COVID Long Haulers, it is certain that this health phenomenon will have an enormous impact on society, medicine, the economy, the law and governance of our world (Puaschunder & Gelter forthcoming).

Long Haulers will contribute to the ongoing digitalization revolution by taking advantage of real-time health status and environmental infection condition tracking. As digitalization allowed for remote learning, working and entertainment, the biggest deurbanization trend in US history emerged in the wake of COVID-19 (Puaschunder 2020a, b; Puaschunder & Gelter forthcoming). Labor market shortages and the number of workers quitting skyrocketing these days will likely further amplify a digitalization revolution to replace human contact and low-skilled labor (Puaschunder 2020a, b). AI, robotics and big data insights come in handy when filling gaps for Long Haulers, who often face waves of debilitating conditions (Puaschunder & Gelter forthcoming). Robotics aid on patient care and hygiene (Puaschunder 2019c). Big data analytics have already revealed ground-breaking COVID long haul insights that will likely lead the way forward to finding remedies for those in chronic pain (Puaschunder & Gelter forthcoming).

Moreover, Long Haulers have already found themselves in online self-help groups for quick and unbureaucratic information exchange about an emerging societal phenomenon (Puaschunder & Gelter forthcoming). Accounting for the nature, size and scope of the tragedy of Long COVID creates the imperative to protect the most vulnerable populations online when sharing sensitive information about their health and well-being in social media forums online from being turned against them. Nowadays COVID long-haul patients have become – more than ever before – citizen scientists that bundle decentralized information on their health status and potential remedies in order to inform the medical profession about newly emerging trends. The rise in medical self-help and mutual support will have profound implications for the regulation of the medical profession and will likely stretch the medical remedy spectrum and boost alternative medicine.

Instant online exchange of sensitive information about one's health status makes citizen scientists particularly vulnerable in terms of their privacy and potentially susceptible to online marketing campaigns under medically impaired conditions. But also, the long-term impact of publicly disclosed sensitive information that is shared bit-by-bit online over time appears sensitive. In the digital age, it is difficult to estimate what effects the piecemeal providing of private information will have over time, when, for example, personal health information disseminated in an internet forum is absorbed into large datasets. If information is analyzed and displayed in relation to other individuals' performance, a combined dataset could open gates for discrimination and stigmatization.

In the online exchange of sensitive information about one's health status, COVID Long Haulers, who recently have been recognized as potentially disabled group, are also in particular vulnerable in terms of their privacy, potentially susceptible to online marketing campaigns under medically impaired conditions, but also because of their sensitive information being publicly disclosed online over time (The White House of the United States 2021). This online sharing of medical information raises important – but yet hardly described – concerns about privacy, susceptibility to misinformation and discrimination in the vastly unregulated online social media arena, which calls for urgent attention.

Policy implications

As often happens when technological advances affect daily life without sufficient time for their legal regulation, a series of general principles and guidelines of a non-binding nature have

developed in recent years, mainly through consensus at both regional and international levels (Bariffi 2021).

For instance, the 2018 Toronto Declaration of 2018 established three fundamental premises. First, that the ethics of AI and how to make technology in this field human-centric must be analyzed through a human rights lens. Second, that when developing AI, states (public and private actors) must consider the new challenges that this technology poses for equality and representation of and impact on diverse individuals and groups. Third, that in the face of any discrimination, states must guarantee access to an effective judicial remedy (The Toronto Declaration 2018).

In a very similar sense utters the Declaration on Ethics and Data Protection in Artificial Intelligence adopted during the 2018 International Conference of Institutions dedicated to Data Protection and Privacy (ICDPPC) with two additional premises or principles, transparency and responsibility (Declaration on Ethics and Data Protection in Artificial Intelligence 2018).

Also in 2018, The Public Voice organization approved the Universal Guidelines for Artificial Intelligence, a document endorsed by 50 scientific organizations and over 200 experts from around the world. The document outlines 12 principles which must be incorporated into ethical standards, to be adopted in national legislation and international agreements, and to be integrated into the design of AI systems. The principles include the (1) Right to Transparency, (2) Right to Human Determination, (3) Identification Obligation, (4) Fairness Obligation, (5) Assessment and Accountability Obligation, (6) Accuracy, Reliability, and Validity Obligations, (8) Public Safety Obligation, (9) Cybersecurity, (10) Prohibition on Secret Profiling, (11) Prohibition on Unitary Scoring, and the (12) Termination Obligation.

The European Union (EU) has also sketched several documents to address the ethical and legal aspects of AI systems. For example, on April 8, 2019, the EU Commission adopted the Ethics Guidelines for Trustworthy Artificial Intelligence establishing 7 key requirements that AI systems should meet in order to be deemed trustworthy: (1) Human Agency and Oversight, (2) Technical Robustness and Safety, (3) Privacy and Data Governance, (4) Transparency, (5) Diversity, Non-Discrimination and Fairness, (6) Societal and Environmental Well-Being, and (7) Accountability. According to this text, the trustworthiness of AI underlies on three components that must be satisfied throughout the entire life cycle of the system; i) lawful – respecting all applicable laws and regulations, ii) ethical – respecting ethical principles and values, iii) robust – both from a technical perspective while considering its social environment.

The Council of Europe has also approved declarations along these lines. The Guidelines on Artificial Intelligence and Data Protection shape a series of general guidelines, and instructions targeted for developers, manufacturers and service providers but also recommendations for legislators and policy makers. The Declaration of the Committee of Ministers on the manipulative capacities of algorithmic processes of February 2019, highlights that, "sub-conscious and personalised levels of algorithmic persuasion may have significant effects on the cognitive autonomy of individuals and their right to form opinions and take independent decisions. These effects remain under-explored but cannot be underestimated. Not only may they weaken the exercise and enjoyment of individual human rights, but they may lead to the corrosion of the very foundation of the Council of Europe. Its central pillars of human rights, democracy and the rule of law are grounded on the fundamental belief in the equality and dignity of all humans as independent moral agents."

Finally, the Recommendation Unboxing Artificial Intelligence: 10 Steps to Protect Human Rights of May 2019 underlies the need to carry out impact assessments on human rights in relation to AI systems. As explained, there is already an incipient regulatory approach regarding the impact of AI systems on human rights, although for the moment, these are only non-binding guidelines or principles of interpretation.

In the post COVID-19 era, large-scale online information exchange about medical conditions and potential remedy alternatives is a rather novel phenomenon and therefore hardly

regulated. The downsides of crowdsourcing information about health online are emerging risks and unknown legal boundaries as well as potential liability concerns. Online crowdsourcing of information also opens gates to critical biases against those publicizing their health status online, as well as a risk of deception and fraud committed to a highly vulnerable population. International big data exchange could set standards for future pandemic prevention but should also provide big data privacy protection and legal anti-discrimination means against misuse of sensitive information – such as leading towards stigmatization – of vulnerable patients' exposure of their disability and conditions (Cirruzzo 2021; The White House of the United States 2021).

As online sharing of sensitive information opens privacy concerns for a vulnerable and impaired group, the creation of legal and regulatory frameworks to prevent abuse of online forums for marketing purposes at the expense of the well-being of susceptible patients and impaired individuals in physical and emotional pain or debilitated conditions has become a blatant demand of our time. Long-term deliberations and hyperbolic discounting should be integrated into academic and political debates in order to protect individuals when innocently sharing medical information and compassionately seeking or extending non-medically-trained help (Puaschunder 2017a, b; 2018).

The anonymous participation in new virtual realities currently also brings along completely new problems such as cyber-crime, hate postings and social censorship by online mobs, which could be particularly harmful to vulnerable patients seeking remedies online. Governments and traditional media have lost control over public opinion in the digital age. Legal protection includes privacy in "big data" and the individual "right to be forgotten" online as well as the dignity of conscientious data protection and online privacy (Mayer-Schönberger 2009). Healthy and informed access to new media needs to address the dilemma between the individual benefit from information exchange online versus the human dignity of privacy on the internet.

On a wider societal scale, the digitalization disruption also brings along novel inequalities (Puaschunder 2020a, b). Inequality in internet connectivity, tech skills and affinity to digitalization leverages AI-human-compatibility as a competitive advantage. Digital online working conditions that make individual living conditions transparent emphasize social hierarchies in our work-related interactions and may further transpire differences in social status in business and educational settings. Taxing the digital economy could create the fiscal space to offset the financial fallout from technological disruption and ensure that education and professional training emphasize the conscientious use of new technologies (Puaschunder 2019a). Taxing internet generated gains could also provide the fiscal space to offset online inequalities in granting access, tools and capabilities for underprivileged segments and COVID long-hauling disabled. All these endeavors could ennoble society's most fascinating innovations with a humane sense for attention to human rights, inequality alleviation and compassionate care.

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Ubuntu for Social Entrepreneurship Education

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ABSTRACT: The value created for individuals and communities through social entrepreneurship is increasingly reported in research. Still, the perception that the purpose of entrepreneurship is only for individual or economic gain persists. This narrow perception needs to be expanded to include recognition of social entrepreneurship as a distinctive form of entrepreneurship, together with its broader purpose and the numerous benefits associated with it. The value-creation purpose of social entrepreneurship education can ameliorate numerous socio-economic problems experienced in many communities across the globe. In Africa, where similar problems are profuse, the need for social entrepreneurship is mounting. Therefore, the current conceptual paper explored how the African philosophy of ubuntu can contribute to a broader understanding of the value that social entrepreneurship can create for individuals and their communities. One approach to expand general perceptions is to disseminate knowledge and understanding in this regard, using entrepreneurial education. Gert Biesta's theory on educational purpose, focusing on qualification, socialization, and subjectification, was utilized as a framework to analyze and compare the purpose of social entrepreneurship and ubuntu for entrepreneurial education. Subsequently, recommendations were formulated for including and expanding purposeful learning for social entrepreneurship as part of entrepreneurial education in Africa.

KEYWORDS: entrepreneurial education, purposeful education, qualification, social entrepreneurship, socialization, subjectification, ubuntu

Background

Entrepreneurship as a field of research interest has expanded markedly in recent years. This expansion increasingly includes studies reporting on a variety of forms or types of entrepreneurship, including (but not limited to) 'modern entrepreneurship', intrapreneurship, social entrepreneurship, environmental entrepreneurship, and digital entrepreneurship (Abubakre, Faik, and Mkansi 2021, 3; Cardella et al. 2021, 3; Forouharfar, Rowshan, and Salarzehi 2018, 35; Kasu 2017, 32; Moberg 2014, 524). Each of these types of entrepreneurship has a distinct purpose and slightly divergent characteristics. Yet, despite increased reporting on these diverse types of entrepreneurship, the general perception that the purpose of entrepreneurship is chiefly to benefit individuals and for economic profit, or skills only related to business, persists (Bohwasi 2020, 110; Forouharfar, Rowshan, and Salarzehi 2018, 3; Khan, Oad, and Aslam 2021, 64; Rippon and Moodley 2012, 86; Salamzadeh, Azimi, and Kirby 2013, 18).

The divergent characteristics and distinct purpose of various types of entrepreneurship must be disseminated more broadly to contribute to knowledge and understanding of the benefits associated with each type. For example, Van Wyk and Adonisi (2010, 68) explain that social entrepreneurship "has the potential to address and shape transformations on political, cultural, and economic levels". Congruently, Cardella et al. (2021, 1) explain how social entrepreneurship contributes value in "diverse sectors such as innovation, technology, public policy, community development, social movements, and non-profit organizations". These two studies indicate that the benefits associated with this type of entrepreneurship are much broader than only economic gains. Against the backdrop of the countless social and communal problems that many countries across the globe face currently, it would be worthwhile to explore how social entrepreneurship can contribute to ameliorate (at least some of) these problems. Still, limited awareness of the potential benefits of social entrepreneurship means that fewer people may pursue it, reducing its potential to contribute value to communities. Hence, there is a need for education about and clarification of the expansive purpose of social entrepreneurship, including its potential to create value for others.

Moreover, there is mounting discord about the Western "predominantly individualistic thinking" about entrepreneurship, versus traditional more inclusive African views that "is characterized by solidarity, communitarianism, traditionalism, and participation" (Kasu 2017, 26). Therefore, exploring education on social entrepreneurship using a more inclusive African-oriented philosophy will contribute to contextualize its potential benefit to nations on this continent.

Literature-based conceptual framework

The concept of social entrepreneurship is addressed as a starting point, followed by the characterization of ubuntu, a well-known African philosophy of inclusivity. The discussion then advances to entrepreneurial education as a possible vehicle for disseminating knowledge and understanding about these two concepts to a broader audience.

Social entrepreneurship

Social entrepreneurship is a rapidly growing field of research, including diverse sectors and foci (Cardella et al. 2021, 1). As a result, numerous definitions, conceptualizations, frameworks and interpretations have been developed for social entrepreneurship, many of which convey a purpose of value creation. For instance, Cardella et al. (2021, 2) define social entrepreneurship as "a form of social change by means of innovative ideas or actions to achieve social objectives and create new value." Two more expansive definitions or explanations for this term, both focused on social value creation, are presented to elucidate the complexity of social entrepreneurship. In the first, Salamzadeh, Azimi, and Kirby (2013, 19) define social entrepreneurship as a process initiated by forming social ideas, followed by steps to identify, create, evaluate and exploit opportunities related to the initial idea, and which results in social value creation. Defining social entrepreneurship as a *process* implies that careful planning and consideration of the various elements contributing to the process are needed to attain its intended benefits. Providing more detailed explanations of these elements, Peredo and McLean (2006, 64) define social entrepreneurship as actions where an individual or group: (1) prominently or exclusively aim(s) to create social value; (2) can envision, recognize or take advantage of opportunities for value creation; (3) utilize(s) innovation to develop or distribute social value; (4) take(s) risks to create or dispense social value; and (5) is/are not deterred by a lack of resources when in pursuit of their social value creation goal. The definition by Peredo and McLean (2006, 64) underscores that social entrepreneurship is an activity (or process) with the creation of social value as the core purpose of thereof.

Characteristics of social entrepreneurship

The most frequently mentioned characteristics of social entrepreneurship are that it relies on innovation and opportunity-identification to create social value, effect positive social change, and improve social welfare (Cardella et al. 2021, 2; Forouharfar, Rowshan, and Salarzehi 2018, 11; Rippon and Moodley 2012, 83). Social entrepreneurs are viewed as change agents who use general entrepreneurship principles "to organize, create, and manage a business to bring about social change" and, in the process, solve socio-economic problems (Cardella et al. 2021, 4). The core aim for social entrepreneurship organizations is not to make a profit but rather to make a positive difference by addressing socio-economic problems or issues (Rippon and Moodley 2012, 82). That is not to say that social entrepreneurship organizations may not make a profit – income or profit generated is, however, not the core purpose thereof (Peredo and McLean 2006, 61). Two directions of research are distinguished in this regard: the non-profit organizations focusing exclusively on social undertakings (non-profit); and the hybrid ventures that combine economic (for-profit) and social (non-profit) goals (Cardella et al. 2021, 2; Peredo and McLean 2006, 60). Social entrepreneurship, therefore, can benefit the entrepreneurs themselves and

individuals or groups in a community through the value it creates (Forouharfar, Rowshan, and Salarzehi 2018, 9; Peredo and McLean 2006, 60).

Value-creation as the purpose for social entrepreneurship

The change agents in social entrepreneurship are continuously working to solve social problems or looking for new opportunities to create value in an iterative process of exploration, innovation and learning (Cardella et al. 2021, 2; Salamzadeh, Azimi, and Kirby 2013, 19). Such value-creation can be applied in or focused on various social issues. For example, Urban (2008, 353) describes how social entrepreneurship can create value through creating jobs, optimizing the utilization of buildings, providing volunteer support, and generally helping people in need. In another example, Cardella et al. (2021, 1) explain that social entrepreneurship creates value by improving the "collective well-being and the quality of life in the community", reducing illiteracy or poverty, conserving or protecting the environment, or overcoming social injustices or discrimination. The potential for value-creation through social entrepreneurship is thus broad and far-reaching across several spheres of interest. Consequently, Forouharfar, Rowshan, and Salarzehi (2018, 5) caution that researchers should refine, adapt and align the purpose of social entrepreneurship to "justify its role as a model for social value-creating activities".

On the African continent, "social and economic needs abound", creating countless opportunities for ventures that have (or at least include) social goals (Rivera-Santos et al. 2015, 78). It is, therefore, worthwhile to consider how social entrepreneurship could best be merged with African philosophies. One well-known African philosophy that seems exceedingly appropriate for social entrepreneurship is *ubuntu*.

Ubuntu

The concept of *ubuntu* appears in various forms and is referred to by various terms in several African countries (Bohwasi 2020, 109). It is difficult to translate directly, but generally, it is interpreted as meaning "I am because we are" or "I am what I am because of others" (Abubakre, Faik, and Mkansi 2021, 2). *Ubuntu* is closely linked to humanity, being human, humanness or oneness and expresses the philosophy that "we are truly human only in community with other persons" (Lutz 2009, 314). In other words, "an authentic individual human being is part of a larger and more significant relational, communal, societal, environmental and spiritual world" (Bohwasi 2020, 109). *Ubuntu* is, therefore, a philosophy that positions and explains an individual's humanness in relation to others.

Characteristics of ubuntu

Views of human interdependence and reciprocity characterize the philosophy of *ubuntu*, focusing on 'being human together with others' rather than centring on individualism or self-interest (Mirvis and Googins 2018, 3; Rivera-Santos et al. 2015). *Ubuntu* provides a dynamic view of the interchange and exchanges between individuals, shifting away from individualistic social understandings to promote relationships of inclusivity and reciprocity between people. In *ubuntu*, an individual's identity (who they are) is shaped through their relationships with others, and their success is reliant on the contributions of and cooperation with other members of the community (Abubakre, Faik, and Mkansi 2021, 6).

Ubuntu is characterized by values of benevolence, humility and reciprocity (Abubakre, Faik, and Mkansi 2021, 1; Lutz 2009, 320). It also relies on values such as sharing, respecting others as human beings, and "the universal brotherhood of Africans" (Kasu 2017, 27), as well as harmony and hospitality, caring for and supporting others, solidarity, responsiveness to the needs of those around you, and appreciation for how people serve each other (Abubakre, Faik, and Mkansi 2021, 5; Kasu 2017, 29). It is underscored by a cultural belief that individual gain ought to be subservient to tribal or community interests (Mirvis and Googins 2018, 3). For these reasons,

economic and other values are derived from "the capacity of the community instead of the abilities of individuals" (Abubakre, Faik, and Mkansi 2021, 5).

The communal character associated with *ubuntu* is not, however, the same as Marxist collectivism, in which the good of the individual is subordinate to that of the group: it is more accurate to say that individuals pursue their own 'good' through pursuing the common good (Lutz 2009, 314). *Ubuntu* is, therefore, community orientated, using collective collaboration to support and empower individuals within the community to grow and develop self-worth (Van Wyk and Adonisi 2010, 79). This collectivistic premise diverges from the Western, more individualistic views to life in general and the economic sphere (Van Wyk and Adonisi 2010, 73) and in the approach to entrepreneurship (Abubakre, Faik, and Mkansi 2021, 3). So, how can the African philosophy of *ubuntu* be utilized to expand learners' understanding of the value that social entrepreneurship can create for individuals and their communities?

Ubuntu and social entrepreneurship

According to Van Wyk and Adonisi (2010, 78), "Money does not build people, it is *ubuntu* that builds people." This statement underscores the importance of people in the success of individuals and groups. Therefore, the many socio-economic problems faced by societies, particularly African societies, will not be solved by money (only) but can be ameliorated through *ubuntu* or community collaboration. Social entrepreneurs are inclined to choose reciprocity and interdependence to do good, solve problems, and create value for others in their society or community (Mirvis and Googins 2018, 3). Social entrepreneurs select activities that include communities (and 'others') in decision-making processes (Rivera-Santos et al. 2015, 80). *Ubuntu* also realizes in entrepreneurial activities such as creativity and innovation, social entrepreneurship, and recognition of opportunities (Van Wyk and Adonisi 2010, 76). To address (at least some of) the socio-economic problems and challenges faced by many communities, encouraging an *ubuntu* philosophy and "unleashing a spirit of social entrepreneurship focusing on Africa's youth is critical for future training and development" (Rippon and Moodley 2012, 94). Thus, ways to support this type of education must be explored. Entrepreneurial education is a potential vehicle for disseminating knowledge and understanding about these two concepts to a broader audience, as discussed in the subsequent section.

Entrepreneurial education for social entrepreneurship

'Entrepreneurship' refers to what an 'entrepreneur' is and what that person does as an entrepreneur (Peredo and McLean 2006, 57). This implies that the type of entrepreneurship (for example, what a person does as a *social* entrepreneur) will shape the education associated with it. Accordingly, the narrow term 'entrepreneurship education', which mainly serves to develop competencies for starting a new venture or business (Lackéus, Lundqvist, and Middleton 2016, 780), might not be appropriate for fostering social entrepreneurship education. On the other hand, the term' enterprise education' refers to developing entrepreneurship competencies for everyday life to generate and realize ideas (Lackéus, Lundqvist, and Middleton 2016, 780), which also does not entirely address the characteristics of social entrepreneurship. The more encompassing term' entrepreneurial education' is therefore proposed for education on social entrepreneurship, as it encompasses both entrepreneurship education, as well as enterprise education, and in which entrepreneurial is interpreted as "creating value for others" (Lackéus, Lundqvist, and Middleton 2016, 778).

Linking learning with value creation aligns with Vygotskian views on the outcomes of learning. That is: learning through internalizing activity to develop understanding, as well as externalization of activity to develop products, through value creation (Lackéus, Lundqvist, and Middleton 2016, 791). Using a value-creation purpose for entrepreneurial education will include

both social and individual learning components (Lackéus, Lundqvist, and Middleton 2016, 778). This aligns well with the philosophy of *ubuntu*, wherein an individual's identity is shaped through interdependent social actions with their community, resulting in "collective forms of being" (Abubakre, Faik, and Mkansi 2021, 6).

Although value creation is seldom the primary purpose of education, it supports "increased engagement and deeper learning" (Lackéus, Lundqvist, and Middleton 2016, 790), making the learning more meaningful and valuable. In this regard, 'value' is not singularly related to economic gains but relates to creating value in social, economic, cultural, emotional and ecological spheres, wherein individuals learn through creating value for others (Lackéus, Lundqvist, and Middleton 2016, 778). Entrepreneurial education for social entrepreneurship can thus also be described as utilizing entrepreneurship content and skills for application with social value-creation intent (Peredo and McLean 2006, 58). Therefore, the value-creation purpose of this type of learning should be delineated and disseminated widely to foster an understanding of its worth and benefits for individuals and communities.

To provide a framework for clarifying such a value-creating educational purpose based on the *ubuntu* philosophy, the 'purposes of education' theory of Biesta (2009; 2012; 2015; 2020) was used for the current study.

Theoretical framework

Over the past two decades, Professor Gert Biesta has developed an educational theory in which he suggests that education should be oriented toward three functions or domains of purpose, specifically regarding qualification, socialization, and subjectification. Each of these functions or domains provides context and elucidation to support the purpose of education. The theory is based on the premise that "education is [or ought to be] about education, not learning", and therefore its purpose should be clear (Biesta 2012, 584).

The qualification purpose of education

The qualification function of education serves the purpose of developing learners' knowledge, skills, understanding, values and disposition to enable them to 'do something' – including very general and more specific education (Biesta 2009, 39; 2012, 584; 2015, 77; 2020, 92). This is often viewed as the core purpose of education (Biesta 2009, 39) and focuses on what (content, skills, competencies and values) is included in education. If the qualification purpose is clear, it enables the determination of the educational content (the 'what') that must be included to attain this purpose.

The socialization purpose of education

The socialization function of education refers to "the ways in which, through education, [learners] become part of existing traditions and practices (Biesta 2012, 584). This educational purpose is often embedded in the hidden curriculum and emphasizes the contribution of culture, traditions and community practices to developing learners as members of "particular social, cultural and political orders" or groups (Biesta 2009, 40; 2020, 92). This function of education also highlights that education cannot be neutral but is always affected by society's underlying norms and values (Biesta 2009, 40). The socialization function of education can develop cohesion or division, depending on the social structures, norms and values that it embraces (Biesta 2015, 77). Therefore, the social context in which learning takes place contributes significantly to the intended or expected purpose of education. Learners are, however, not only viewed as 'part of a group' but also as individuals that need to develop certain qualities.

The subjectification purpose of education

The subjectification function of education refers to how education contributes to developing individual learners' qualities or characteristics (Biesta 2012, 584). It includes personal or individual characteristics such as "autonomy, independence, responsibility, criticality and the capacity for judgement" (Biesta 2015, 85). The importance of developing the learner as an individual (not only as part of a particular group) is the purpose of this function of education. The subjectification purpose of education is closely linked to what a learner chooses to do (or not to do) with what they have learned (Biesta 2020, 93). Therefore, the subjectification purpose of education supports learners in becoming more independent and autonomous in their thinking and acting (Biesta 2009, 41), built on a foundation of understanding their place in the world (Biesta 2012, 589; 2020, 97).

None of the three dimensions or purposes of education can be viewed as disengaged from the others (Biesta 2009, 41; 2012, 586). For example, what is learned (as part of the qualification function), will impact how learners view themselves as part of certain groups (socialization function), as well as what they choose to do with this learning (subjectification function). The linkages between the three functions are not equal but depend on what the core focus or purpose is at a particular point in education; for example, sometimes the focus is on knowledge or skills development, and at other times it might be on developing the learner as a human being in general (Biesta 2015, 79).

Against the background of Biesta's explanations above, together with the insights gained from the literature review, this theoretical framework was subsequently used to analyze and clarify the purpose of entrepreneurial education for social entrepreneurship, informed by the philosophy of *ubuntu* (Table 1).

Table 1. Refining the Purpose of Entrepreneurial Education for Social Entrepreneurship Informed by *Ubuntu*

	Qualification purpose	Socialization purpose	Subjectification purpose
Social entrepreneurship	developing learners' knowledge, skills, values and mindset to support understanding and utilizing of social entrepreneurship, with the purpose to create value for themselves and others	recognizing and understanding the contribution of culture, religion, traditions and community practices on learners' perceptions of social entrepreneurship as a value-creation activity	developing learners' individualistic characteristics (such as independence, responsibility, criticality); providing opportunities for learners to make informed choices regarding how they can utilize learning to create social value
Ubuntu	exploring and using contextualized socio-economic problems to guide, scaffold and inform learning about social entrepreneurship and how it can contribute value for learners and their communities	developing learners' understanding of human interdependence and reciprocity; valuing indigenous knowledge, traditions and beliefs as a framework to inform how and where learners can create value in their communities	developing learners' personal characteristics to pursue their own 'good' through pursuing the common good in their communities; as well as their understanding of how applying learning about social entrepreneurship can create value for themselves while also improving their communities

From the analysis and comparison in Table 1, the confluence of social entrepreneurship and *ubuntu* as guiding philosophy is clear. The three dimensions of education proposed by Biesta provides a robust theoretical framework to enhance the understanding and dissemination of relevant learning regarding the purpose of social entrepreneurship. This should contribute to the development of broader perceptions about the type of learning, the application potential thereof in various sectors, and the benefits associated with social entrepreneurship as part of entrepreneurial education. Careful consideration to align the purpose of entrepreneurial education to the needs of particular communities, based on the challenges and socio-economic problems they face, would improve the meaningfulness of such education to a much broader 'audience' than only for individual entrepreneurs. Linking such a new understanding of purposeful social entrepreneurship to the philosophy of *ubuntu* allows for improved contextualization of this type of learning for learners in African countries and will reduce the discord about the Western "predominantly individualistic thinking" about entrepreneurship to reflect more inclusive African views in entrepreneurial education. In addition, applying the *ubuntu* philosophy in entrepreneurial education will enable learners to contribute to ameliorating (at least some of) the problems that their communities face when they apply value-creating principles as part of social entrepreneurship.

Conclusions

This conceptual paper aimed to contribute to broadening and expanding general perceptions about the purpose of entrepreneurship (and entrepreneurial education): that there are different types, that it is much more than only for economic gains, and that it can be of value to communities, not just to individuals. Delving deeper into the purpose of social entrepreneurship as part of entrepreneurial education clarified different areas for emphasis in planning such education. The core purpose of creating value was highlighted yet again. Utilizing *ubuntu* allows for better alignment of entrepreneurial education with the African philosophy of reciprocity and inclusion to develop opportunities to create value for the self (that is, the individual entrepreneur) and others in their communities through entrepreneurial endeavours. Future research should further explore how entrepreneurial education can be improved to align with social value creation and *ubuntu* principles regarding teaching-learning content, teaching-learning approaches, and assessment in entrepreneurial education.

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Law & Economics

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ABSTRACT: The fields of law and economics are hallmarks of social sciences. Legal studies account for the oldest foundations of scholarly work and have ever since been part of academic institutions. Since the inception of the science of economics, this standardized way of measuring utility had rising popularity. Surprisingly, the interdisciplinary discourse of Law & Economics has just recently started in the previous decades. In today's world, the time has come to acknowledge the power of integrating Law & Economics as a most important approach to solve the most pressing issues of our contemporary times. Climate change, inequality and the introduction of Artificial Intelligence (AI) into our society will require the bundled strength of Law & Economics to successfully understand, harness the positive advancement but also curb harmful consequences of the opportunities and threats of our contemporary society. Law offers a humane-ethical clarity, governmental impetus and practical feasibility but also historical adaptability to implement societal changes including a legal birds-eye view of comparative approaches around the world, an exemplary sensitivity to disparate impacts of external influences on society but also clear guidelines how far the individual freedom can be granted in light of common security protection and societal welfare enhancement. Economics features the most advanced discounting of future value methods, an exemplary formalization of societal welfare maximization over time but also the most sophisticated ways to quantify societal losses over time and in often-overlooked or behaviorally-unforeseen externalities. Only in the harmonious combination of both disciplines will the most pressing contemporary predicaments of our time be solved and widespread inequalities be alleviated through fine-tuned redistribution mechanisms. Acknowledging the power of an interdisciplinary approach and cherishing a unique field of Law & Economics can help bridge the gap between societal entities. Adopting an interdisciplinary study approach with a commonly-understood language will promote a mutual understanding of multi-faceted insights in order to harvest the benefits of a fruitful Law & Economics *Gestalt* that is greater than its law and economics components.

KEYWORDS: AI, Artificial Intelligence, Climate Change, Coronavirus crisis, COVID-19, Disparate impact, Economics, Economics of the Environment, Environmental Justice, Environmental Governance, Equality, Family, Female Empowerment, Gender, Household, Law, Law & Economics, Mathematical formalization, Monetary policy, Multiplier, Nuclear family, Redistribution, Social Justice, Sustainability, Zero Waste movement

Introduction

This paper highlights the growing intersection of Law & Economics that has proven to be one of the most promising areas to tackle today's most pressing global challenges in the domains of climate change, inequality and the introduction of Artificial Intelligence (AI) in society. Only by the concerted analysis and combined strength of the legal impetus and economic formalization, a clear quantification of social welfare maximization is enhanced by a disparate impact analysis to shed light at inequality multi-facetedly. Economics balances the legal aspirational fairness goals with realism based on budget constraints. Law & Economics couples economic rationale with a humane nature in fairness notions. The forward-looking strength of economic discounting is fortified by the clear guidelines on deterrence, risk-attentive insurance and fiscal space grounded in legal hallmarks of democracy. The field of Law & Economics deserves attention in order to find a common language and concerted methods to bundle the power and strength of both fields in the alleviation of the most pressing contemporary challenges to humankind.

Law

The scientific field of law has been among the first disciplines representing early universities. Today, law is legislation created and enforced through social and governmental institutions to regulate common behavior and concurrent living in society (Robertson 2012). The practice of law guides individuals' behavior around the world in legally-binding contracts, arbitrations, rights, constitutions, human rights and international laws, treaties and agreements. Law shapes all aspects of human life. It is a fundamental determinant of the feasibility of political and economic goals. Some legal approaches and customs are fundamental values throughout the entire world; others vary between continents, countries and individuals' interpretation. While public law is more housed in the domain of governments concerned over society; private law regulates legal relations between individuals and/or organizations via contracts, property rights, torts and delicts but also commercial law (Horwitz 1982).

Economics

Economics is a social science that studies efficiency. The field of economics is usually distinguished into micro-, meso- and macro-economic aspects. While micro-economics is primarily concerned about the individual decision-maker and agent behavior in markets; meso-economics is more aggregate and addresses trends of households, corporations and general supply and demand dynamics. Macro-economics is the most aggregate view of the economy in production, consumption, savings, investments and future finance and economic trends. Economic analysis is primarily centered around maximization efforts and discounting of value that can be applied to a wide range of contexts such as the corporate, finance, health care, engineering, governmental and societal welfare. Historically, the field of economics was first prominent in philosophers such as Adam Smith with a political economy application. The growing mathematical formalization and the advent of computers drove economics to become a hard science. Most novel advancements – such as behavioral economics and heterodox economics – opened up economic research to become more interdisciplinary and applied to real-world relevant human decision-makers and global predicaments.

Law & Economics

The interdisciplinary field of Law & Economics started in the late 19th century in continental Europe and was re-ignited in the United States after World War II (Gelter & Grechenig 2014). Modern Law & Economics often applies economic analyses to legal contexts as a major prominent field of research at U.S. and growingly also European law schools. In continental Europe, Law & Economics was re-imported in the last decades as a discipline within economics, driven by economists interested in legal issues (Gelter & Grechenig 2014).

Today's Law & Economics research is vital in the U.S., Europe, and in other countries around the world, including Latin America and Asia. Law & Economics uses mathematical formalism, empirical research methods and intuitive efficiency strategies to better capture the impact of laws in society (Gelter & Grechenig 2014). Economic concepts thereby find the optimum legal regulation and discount the effects of laws over time for various stakeholders including externality calculus. Law & Economics entails an application of the methods and theories of neoclassical economics to a positive and normative analysis of the law (Coase 1996). Law & Economics also includes institutional analysis of law and legal institutions, with a broader focus on economic, political and social outcomes (Coase 1996). Legal soundness tests are often applied to economic insights in order to highlight disparate impacts and imbue overall fairness attributions into economic results.

Like no other interdisciplinary prism, the bundled strength of Law & Economics offers to better understand, harness the positive advancement but also curb harmful consequences of the opportunities and threats of our times. Law bestows a clarity to human interaction and legal feasibility to implement societal changes including a legal birds-eye view of comparative approaches around the world, an exemplary sensitivity to disparate impacts of external influences on society but also a clear guideline on how far the individual freedom can be granted in light of security protection and societal welfare provision. Economics features the most advanced discounting of future value methods, an exemplary formalization of societal welfare maximization over time but also the most sophisticated ways to quantify societal losses in the eye of inequalities and externalities as a basis for redistribution mechanisms. Only in the harmonious combination of both disciplines will the most pressing contemporary predicaments of our time in climate change, inequality and digitalization be efficiently enlightened.

A comparative Law & Economics approach helps understand the most pressing contemporary inequality gaps around the world. The idea of responsibility, fairness and justice are housed in the legal field. Economic analyses can sophisticate redistribution schemes by quantifying the costs and benefit of public policies.

The most pressing issues of our time demand for a transition to a green economy; equality and social justice in education, corporations and the finance world in an ongoing workplace revolution towards digitalized productivity. Law & Economics can provide the necessary financial value calculus combined with an analytic account of inequalities in the post-COVID-19 era. Law & Economics is predestined to lead reforms to evaluate healthcare developments, greening of the economy and what a digitalized world means for various stakeholders in order to curb harmful developments via redistribution and risk prevention means. In all these features, Law & Economics offers the most promising conditions to providing the theoretical foundations for possibilities to make society more responsible, sustainable and equitable in our contemporary post-COVID-19 era.

Climate justice

Climate change has raised the call for finding a fair climate solution within society, between countries and over time. In order to address the different layers of climate justice, a Law & Economics perspective can dissect the inequalities of the economic value of climate gains and losses as well as burden sharing within society, between countries and in-between generations. An analysis of the economic gains and losses of a warming earth around the world but also an economic estimation of future trade prospects in light of global warming and future value discounting, will help quantify how to enact fairness in legally-led redistribution schemes and climate change burden sharing strategies.

First, climate justice within a country should pay tribute to the fact that low- and high-income households carry the same burden proportional to their disposable income, for instance, enabled through a progressive carbon taxation, consumption tax to curb harmful behavior and/or corporate inheritance tax to reap benefits of past wealth accumulation that may have caused climate change (Puaschunder 2017e). Secondly, fair climate change burden sharing between countries ensures those countries benefiting more from a warmer environment also bear a higher responsibility regarding climate change mitigation and adaptation efforts (Puaschunder 2019a, b). Thirdly, climate justice over time is proposed in an innovative climate change burden sharing bonds strategy, which distributes the benefits and burdens of a warming earth Pareto-optimal among generations (Puaschunder 2016a). All these recommendations are aimed at sharing the burden but also the benefits of climate change within society in an economically efficient, legally equitable and practically feasible way now and also between generations. Lastly, future Climate Wealth of Nations is derived from climate flexibility defined as the range of temperature variation of a country (Puaschunder 2020a). In a changing

climate, temperature range flexibility is portrayed as a future asset for economic production and international trade of commodities leading to comparative advantages of countries (Puaschunder 2020a). A broad spectrum of climate zones has never been defined as asset and comparative edge in free trade (Puaschunder 2020a). The more climate variation a nation state possesses, Puaschunder (2020a) argues, the more degrees of freedom a country has in terms of GDP production capabilities in a changing climate.

Direct Law & Economics-driven innovations to find economically-feasible and judiciary-fair climate financialization methods are introduced in tax-and-diversified-bonds strategies (Puaschunder forthcoming). Green bonds are fixed-income securities that are usually certified by a third-party to scale up climate policies. Green bonds provide capital for the investment of sustainable projects and a transition to a zero-carbon emissions economy. Over time, climate bonds offer an intergenerational climate change burden sharing strategy. The current generation can thereby raise funds via debt that is paid back by future generations who inherit a favorable climate *in lieu*.

The novel policy proposal are climate bonds with diversified interest rate and maturity yield regimes (Puaschunder forthcoming). An international taxation-bonds strategy climate stabilization solution could feature a commonly-shared international green bond that incentivizes countries or market actors strategically based on Law & Economics insights (Puaschunder forthcoming). An international climate regime could feature countries to raise funds via taxation or be subject to diversified interest rates bond premium beneficiaries determined by (1) a country's initial position on the climate change gains and losses index spectrum in combination with (2) CO_2 emission levels in relation to other countries and over time, (3) climate flexibility in the range of temperatures prevalent within a national territory of a country in relation to other countries as this determines the future comparative advantage to other nations in the world, (4) the willingness of countries to change CO_2 emissions and (5) the historically-determined banking lending regimes of a country (Puaschunder forthcoming).

The idea of diversified interest rate regimes is also extendable to sector-specific bond yield interest rate regimes. Within a country, the bonds could be offered by commissioning agents, such as local investment banks or commercial bank credits, that could administer industry-specific diversified interest rate maturity bond yields based on the environmental sustainability of an industry, e.g., as measured by the European Sustainable Finance Taxonomy (Puaschunder forthcoming). The bonds could also feature a long-time prospect in financialization via debt that can be repaid by future generations for inheriting a stable climate. Diversified bonds are a new incentivization method aimed at ensuring to share the burden but also the benefits of climate change over time, within countries and markets but also within society in an economically efficient, legally equitable and practically feasible way (Puaschunder forthcoming).

Only Law & Economics will offer the benefits of a quantified disparate impact analysis with attention to all facets of society. For instance, current trends in sustainable development argue for attention to worldwide differences and advocate for self-imposed country goals. On the societal level, Law & Economics can address particularly vulnerable groups on whom sustainability pledges places a disproportionate burden. Think about low-income households and zero-carbon emission pledges that drive up the prices of goods. Especially BIPOC communities and women have been referred to as most vulnerable. Additional financial costs due to sustainability pressures may place a disproportionately-higher burden on constraint households and within these households the traditionally female caretakers (2021 Global Environmental Justice Conference at the Yale School of the Environment; Monitoring & Evaluation Collaborative Association MECA at The New School; Woo 2021).

Intertemporal choices constitute intergenerational equity which implies providing an at least as favorable standard of living to future generations as currently enjoyed (Puaschunder, 2017a, b, 2018a, 2019a, b, 2020a). Intergenerational equity challenges traditional economic

utility discounting models (Puaschunder 2016c). Intergenerational care requires trade-offs between individual profit maximization and net future societal gains under the conditions of uncertainty and unperceivable outcomes for today's disciplined consumers and sustainability taxpayers who lack any interaction and identification possibilities with future beneficiaries (Braithwaite 2003; Puaschunder 2016b; Small & Loewenstein 2003; Steinberg, Graham, O'Brian, Woolard, Cauffman & Banich 2009).

Intergenerational equity deviations from traditional profit maximization models are proposed to stem from emotions. Studies on emotionality describe women to be more susceptible to mood induction and impulsive when being in a negative mood compared to men who exhibit greater patience when experiencing positive emotions (McLeish & Oxoby 2007).

Within the family compound, women take on a special role in averting climate change. Female traits distinguish for traditional nurturing, environmental conscientiousness and emotionally-laden family values. On women, who are also among the world's poorest given existing gender inequalities; climate change ultimately places a greater burden. Women – as primary food producers and water suppliers for their families – are affected by climate change because the roles expected from them and the demands placed on them by their families and relatives.

Not only are female prone to be dealing with the effects of climate change on the local ground but also is there a strong gender impact on climate change mitigation. Women are particularly prone to become change agents on climate agendas. Sustainability is based on intertemporal decisions, in which women tend to be more patient, future-oriented and less cost-sensitive than men, who exhibit more time-inconsistent decision patterns (Ashraf, Karlan & Yin 2006; McLeish & Oxoby 2007, 2009; Read & van Leeuwen 1998; Shawhan 2009; Silverman 2003; Tanaka, Camerer & Nguyen, forthcoming; Viscusi & Huber 2006; Wilson & Daly 2004).

International climate change awareness conferences have been led by female chairs (e.g., Cancun, Copenhagen, Denmark, Durban and South Africa) but also the Secretary-General of Climate Negotiations and the European Climate Change Commissioner are women. The *Mary Robinson Climate Justice Initiative* promotes an alliance of women leaders on environmentalism and advocates for future meetings incepting a platform of female leadership to avert climate change (Puaschunder 2016b). The Rio+20 Conference featured a '*Women Creating a Sustainable Future*' Board to pledge for intergenerational climate justice concerns (Puaschunder 2016b).

As the interplay of gender, emotions and intergenerational attention is unexplored and, in particular, it is unknown if gender differences are systematically related to emotional experiences of future-orientation; future behavioral experimental Law & Economics research could examine the impact of gender and emotions on intertemporal decisions applied to the case of intergenerational equity. Comparative law international comparisons could outline which sustainability features are related to gender and which ones are exogenously-construed by social norms and national specificities. Studying the impact of gender and emotions on intertemporal choices may also help empowering women leadership by strengthening female decision making. Understanding physiological correlates and psychological mechanisms of intertemporal choices will help resolving intrapersonal predicaments in the areas of savings, time management, education, productivity, safety, health and prevention. Depicting gender differences in time-dependent choices promises to leverage inter-gender negotiation skills and lead to recommendations for human relations management. Being knowledgeable about gender-specificities in intergenerational considerations will allow governmental officials to attune public goods distribution and foster a cooperative government-citizen relationship on environmental protection by gender-attentive, emotion-based sustainability campaigns. The novel idea of finding emotional prerequisites of long-term future-orientation is aimed at curbing harmful impulsivity that relegates environmental protection generation by generation. All these

Law & Economics advancements could targetedly pursue the greater goal of averting predictable surprises of environmental decay and climate change.

Future economic policy research may be inspired by the legal concept of disparate impact, which could open up the black box of aggregate production function calculus as the standard measure of economic growth. It could also inform a more diversified and gender-sensitive intertemporal discounting function. Behavioral insights on how to navigate climate change for female may become fundamental for developing an idea of averting and adapting to climate change efficiently within the family compound. All the mentioned analysis and empowerment techniques promise to foster the Sustainable Development Goals on a very granular but widespread level to improve this generation and the following's living earth.

Inequality alleviation

Law & Economics offers the necessary diverse tools to understand inequality. Attention to the combined strength of Law & Economics can teach upcoming scholars of this newly-developing field how to monitor the social impetus of a transition of markets to a more inclusive and just economy. Interdisciplinary focus is necessary when alleviating the most pressing law and economics predicaments of our times in light of the need for attention to climate justice and environmental equity, access to affordable quality healthcare and medical prevention around the world as well as a harmonious transition to a digitalized economy. A legal Socratic analysis that is empowered by the precision of economic calculus will empower inequality alleviation insightfully and ethically to solve the most pressing issues of our lifetime. The ethical imperatives and equity mandates of law coupled with an economic feasibility check can lead to a democratization of society in redistribution schemes.

In finding a fair solution on inequality concerns, gender and racial but also age aspects have recently been discovered as neglected macro-economic variables. The legal expertise in disparate impact analyses can imbue an essential ground-level determinate of fairness into economic calculus. On the macro-level, the academic field of Law & Economics will prospectively adapt to the broad demand shifts implied by COVID-19 resulting in heightened attention for disparate impact accounting and inequality alleviation through redistribution. The analysis of macro-economic aggregates would benefit from a legal scholarship-led reflection of diversified and temporal views of social preferences, given the different age, gender, race and professional propensity risks to stem from the pandemic. The economic inequality exacerbated by COVID-19 implies that future economic policy research may take inspiration from the legal concept of disparate impact to channel the currently unprecedentedly-large rescue and recovery aid wisely to alleviate disparate impacts (Puaschunder forthcoming). Measuring a potentially disparately-heavy burden of the pandemic on already marginalized communities may open gates for targeted rescue and recovery aid with particular attention to empowering races, female and/or alleviating age disadvantages (Puaschunder forthcoming). Already now we see a pegging of governmental rescue and recovery funds to socially-uplifting causes to address inequality concerns and critical race, gender and age-related injustices. Future efforts could directly investigate if there is a heavier load on female as particularly prone to be caretakers, household shoppers and working with unstable employment contracts – all of which creating vulnerabilities in the climate injustice domain and COVID-19 era. Legal excellence on how to detect disparate impacts could be coupled with behavioral economic insights on how to alleviate biases in an uncertain world in order to rescue, uplift and empower marginalized groups and aid them with tax transfer payments.

The legal disparate impact analysis can also shed light at the disproportional heavy impact of COVID-19 long haul syndromes that tends to be falling more heavily on middle-aged women. The demographic impact of long-haul COVID appear to fall disproportionally heavily on 30-50 years young females with a mean age around 42 years at the time of their initial

infection (Rubin 2021). The average COVID Long Haulers are in their late 30s and early 40s, with females making up an estimated 70-75% (Rubin 2021).

Given that the estimated majority of Long Haulers (around 70-80%) are currently believed to be female, but also taking into account that about one third of all Long Haulers' symptoms come in waves during debilitating COVID long-haul episodes; the future analysis of macroeconomic aggregates and policy impacts is likely to reflect a more diversified, gender-sensitive and temporal view of social preferences under unpredictably changing conditions (Collins, 2021; Davis, Assaf, McCorkell, Wei, Low, Re'em, Redfield, Austin & Akrami, 2021; Doheni, 2021; Yong, 2021). Respectively fine-attuned policies can protect female, who are also more at risk to be carrying the long-term consequences of COVID-19 (Puaschunder & Gelter, forthcoming).

Future planning how to handle a generation of COVID-19 Long Haulers may require economic future discounting and maximization calculus but also the legal impetus of taxation and redistribution schemes. Interdisciplinary Law & Economic analyses may shed variegated light on corporate settings, industry demands, and economic growth but also point at Ecowellness trends and sustainable lifestyles in the future, which have been directly related to recovery of COVID-19 Long Haulers (Puaschunder & Gelter forthcoming). In light of growing concerns over COVID long-haul risks but also addressing the newest findings about the interaction of environmental influences on long-haul conditions, employers will likely have a pioneering first mover advantage if they pay attention to the holistic expertise for prevention standards (Puaschunder, Gelter & Sharma 2020). For instance, quick and accurate COVID tests, screening of employee healthcare status but also providing a safe and secure work environment will be crucial in future workplaces. This means that the environment will be constantly monitored for harmful influences. Standards for safety and security provided by protective masks but also a healthy stable in-house nutrition based on an informed understanding of the individual's personal dietary needs will become implicit benefits to attract labor and make a difference when scarce labor decides between potential employers. Certain Ecowellness standards even go as far as to regulate the ecological, health and social criteria for nutrition, including vegan products. Fringe benefits provided by employers may be extended to include holistic preventive care and foresighted vigilance but also insurance coverage for long-term disability after a workplace-induced COVID infection. Legal implications, insurance coverage in the entire social compound but also privacy considerations when dealing with sensitive personal health status information in the workforce over time are rising legal, economic, discriminatory and ethical challenges that may imply risks such as discrimination, litigation and erosion of the social glue. Multi-faceted predicaments will likely arise in the shadow of all these novel developments for Generation COVID Long-Haul.

In light of the elevated risk for females to become COVID Long Haulers, employers are advised to become more willing to grant females more flexibility for home office workplace solutions and digitalized interaction opportunities before they are forced to do so by legal action. Taking into consideration discrimination and long-term risk calculus, all these developments will likely enrich our post-COVID society in a sustainable, healthy and humane-compassionate way.

Digitalization

The COVID-19 health crisis brought along a large-scale, worldwide digitalization disruption. The introduction of Artificial Intelligence, Big Data and Robotics in the economy has ample applications to healthcare and sustainable growth (Gelter & Puaschunder 2021). Law & Economics could help measure and guideline the most cutting-edge healthcare innovations in the digital sector – e.g., such as real-time data collecting microchips in human tissue and color-changing tattoos for real-time cancer-detection, search engine and Bluetooth-enabled

cartographies of healthcare devices as well as human-AI and robotics blends as a remedy for COVID-19 Long Haulers.

In the wider range of applications, Law & Economics can aid on human value maximization with respect for legal concepts such as personal integrity, privacy and dignity. Especially in the real of health and well-being, the entrance of AI, big data insights and robotics needs clear guidance, monitoring and evaluation in light of highly vulnerable populations (Puaschunder 2020b). Law & Economics approaches can further empirically validate the influence factors of the relation between digitalization and anti-corruption as well as the inverse relation of digitalization and economic growth (Puaschunder 2020c).

In addition, the role of creating sustainable online cultures with mutual respect for online ethics of e-privacy (e.g., online search place optimization and discrimination in search engines, privacy concerns of information sharing online about peoples' health status as practiced in COVID Long Hauler social media groups) will be at the core of economic and legal predicaments in the age of digitalization. Ethical dilemmas arise between value in information sharing and dignity in privacy in the age of instant messaging and social online media as information-exchange platforms about health statuses (Puaschunder 2018b). Social welfare calculus will be weighted by legal collective prevention measures with attention to networking effects versus privacy concerns, the right to be forgotten and peoples' mass surveillance (Bariffi 2021; Mayer-Schönberger 2009; Mayer-Schönberger & Cukier 2013). Legal comparative analyses can also help derive insights for a successful digitalization of healthcare and big data generation by comparing and contrasting international approaches (e.g., also taking into consideration the Chinese social credit score). While at the same time economic rationale can guide on the current development of state-funded preventive care initiatives and corporate learning-to-prevent measurements by the aid of digitalization as future wealth of nations of productive societies striving to stay healthy together via digitalization efforts.

Law & Economics will guide an interdisciplinary ample discussion of the most innovative digital medical revolution in prevention, monitoring and tracking of salutogenic prevalences (for pandemics, slow death of despair, preventive medical digitalized tracking of Ecowellness and surrounding contagion risk diagnostics, changing Long Haul body function monitoring). Big data insights will be captured in tracking apps and trend analyses, mapping healthcare (Bluetooth cartography of medical devices) as well as genetic and surrounding risk estimates.

With respect for grand scale endeavors and global governance goals, a Law & Economics lens is needed to harness the rise of sustainable digitalization – with broad scale applications such as innovative Ecowellness valleys, sustainable fashion trends (e.g., body function measurement, fungus clothing and material ecology interior design); Agro-hood sociology and sustainable architecture (e.g., self-learning buildings run on Artificial Intelligence, self-driving cars as well as 3D printing of human tissue and cultured meat) and a healthy diet and collective sports subsidized by state and corporate initiatives that are in line with digitalization trends, natural resource constraints and CO_2 emissions friendly. Future Law & Economics analyses of the most recent trends in sustainable finance and Ecowellness may shed light on cityscaping (safety, hygiene, ventilation, glass, air, water), corporate governance (liability, World Economic Forum Great Reset, healthy work, learning-by-preventing), deurbanization trends (Agrihood, Cottagecore, Biophilia designs, minimalism, healthy nutrition, cleansing) and lifestyle changes (rest economics, integration of AI, robotics and big data as Long Haul waves of uncertainty).

Law & Economics holds the most efficient yet ethically responsible innovation extensions that promise to become the key to argue for addressing the most pressing predicaments of the democratization of healthcare and medical information online. While telemedicine grants access to affordable healthcare around the world and breaks through corruption crowding out quality care, liability issues and privacy concerns need attentive weighing in on these COVID-19 externalities. For instance, Law & Economics can mark the

respective market mechanisms but also set ethical boundaries in the establishing of data freedom in setting economic incentives to share information in social compounds and legal regulation targeting at responsible access to big data insights. These predicament between market dynamics monetary gratification versus ethical dignity in privacy is exacerbated in the wider common wealth in common health approach in the post-COVID-19 digital era, when data exchange of sensitive information of vulnerable populations (e.g., Long Haulers in Survivor Corps groups on social online media) raise the most pressing questions on anti-discrimination and privacy over time.

Innovation management credentials in the digital age will require Law & Economics that would allow concrete economic-modelling coupled with philosophical, ethical and legal foundations. Trends evaluations will be captured that follow socio-historical value creation in the grand theme of time. Future leaders are advised to address challenges with a Law & Economics lens in order to derive real-world policy making guided by ethically-enhanced legal leadership.

Digitalization inequality can best be alleviated in an integrated Law & Economics approach that features innovative empirical research to advance the normative or ethical debate about the impacts of AI, machine learning and new information technologies with attention to big data generating entities. By using quantitative or qualitative social science methods, economics and legal research would highlight different layers of inequality in the digital age.

Not only has the onset of globalization triggering a world-wide digitalization wave led to the highest polarization between e-skilled versus e-unskilled labor but also will AI hubs that reap data of the entire world even further this divide. Future 5G revolutions will also advance the economic potential of AI hubs. Our contemporary economic growth models appear not fully-equipped to capture their prosperous state of AI hubs as cross-sectionally over the entire world and over time there was an inverse relation found between digitalization and economic growth (Puaschunder 2020c). Other important Law & Economics areas of research include data deficit and internet connectivity inequalities based on e-skilled versus e-unskilled labor. The problem of digital home offices for the individual psychological and sociological well-being but also the inequalities arising in different Zoom backgrounds during evaluation situations (e.g., Zoom job interviews, online-distance learning, conference presentations) should become subject to scrutiny in future Law & Economics research. Lastly, in a truly international digital virtual meeting place, barriers to access of information, but also boundary influences – such as the inverse relation of digitalization and corruption, favorable time zones and digital education – should become scrutinized for potential ethical market downfalls in upcoming Law & Economics research. Thereby the economic market dynamics should be analyzed with a disparate impact view prominent in legal scholarship. Discrimination could also become subject to Law & Economics scrutiny in regards to search place discrimination in the strategic manipulation of search engine results; in the currently-forming gap between those who reap Big Data insights (online social media capitalists-industrialists) and those who spend time producing data and trackable movement online (online social media consumer-producers); as well as in a whole-rounded digitalization infrastructure analysis featuring the technical equipment, the e-skill training as well as a discrimination bias-free environment to flourish from digitalization (Puaschunder 2017c, d; 2018b).

Law & Economics guided research could also emphasize the political economy of internet governance by studying digitalization in dissecting its societal drivers of internet innovation, the economic growth potential of digitalized economies and how to enhance and protect the overall social welfare of a digitalized society with legal and policy frameworks. This research would have a strong applied component to develop a deeper understanding of the history of internet governance, economics of digitalization and the societal necessity for innovation with an application in the digital domain. Legal case studies and economically-practical guidelines could outline how to build a strong AI, Big Data and robotics-driven culture in society, in which

the internet and 5G permeate all categories of life. Ethical foundations of digitalization and novel interpretations of excellence in the digital age could be found as an underlying driver of economic and societal well-being. Behavioral economics and policy leadership applications in the age of AI, big data and robotics could continuously extend on developing a hands-on applied leadership and strategic followership training with attention to digitalization (Beerbaum & Puaschunder 2018).

Acknowledging the power of interdisciplinary and cherishing a separate field of Law & Economics can help bridge the gap between these fields, aid in adopting a common language to push for promoting a mutual understanding of its most valuable insights and harvest the benefits of a fruitful Law & Economics *Gestalt* that is greater than its law and economics components.

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The Impact of Audit Committee Effectiveness on Corporate Performance – Evidence from Saudi Arabia

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ABSTRACT: The main aim of this study is to investigate the relationship between the effectiveness of audit committee (AC) of transportation firms listed on TASI and firm performance (FP) for the period 2010-2019. Employing Pooled OLS multiple regression analysis, the results indicate that the AC independence is negatively associated with FP. Therefore, the results contradict previous research which found that such relationship is significantly positive. Moreover, the results of two Pooled OLS regression analysis models reveal that frequent annual AC meetings do not have statistical association with FP. The findings of this study are relevant to investors and policy makers in Saudi Arabia regarding the reliability of AC in today's competitive markets.

KEYWORDS: Corporate governance, Audit committee, Firm performance, Return on Equity, Earnings per share

JEL Classification: M40, M41

1. Introduction

Following series of financial scandals of high profile North American and Western European corporations over the last twenty years or so, several critics and researchers questioned the effectiveness and competence of corporate governance tools in safeguarding shareholders' interests and maintaining the integrity of corporate financial information (Zamansky 2011; Sunderland 2010; Sikka 2008a). Such critics pointed to the passive role of corporate governance pillars, namely external auditors and ACs in exercising their responsibilities vis-a-vis the financial reality of the firm. Therefore, many researchers investigated the possible impact of ACs on FP especially with regards to the basic characteristics that enable the committee to exercise its power in protecting the interests of shareholders such as composition, authority, resources, and diligence (Dezoort et al. 2002). Recently, many studies attempted to examine the possible association between AC characteristics and FP (Klein 2002; Klapper & Love 2004; Claessens & Yurtoglu 2013; Kao et al. 2019).

It has long been perceived by researchers such as (Jensen and Meckling 1976) that firm directors, who are the defacto agents are hired by the shareholders to manage firm operations and act in the best interests of the owners. However, it is widely believed that directors may not in fact act in the best interests of the owners but for their own personal goals. Such behaviors are mainly driven by financial incentives which benefits the interests of the directors not the owners (Graham et al. 2005). Therefore, the effectiveness of AC should, in fact, act to mitigate the agency problem by providing robust mechanism to align the objectives of directors and owners.

Previous research in Saudi Arabia provides insights on the statistical association between AC characteristics and FP in which many of these studies found conflicting results (Al-Matari et al. 2012; Bagais and Aljaaidi 2020). However, this study attempts to contribute to the growing AC literature new insights regarding the possible relationship between FP and two fundamental AC characteristics, namely the frequency of AC meetings and AC independence based on data derived from corporate annual reports of the transportation sector listed in the Saudi Exchange market Tadawul All Share Index (TASI). Such research design offers new insights about the impact of AC

effectiveness on FP. The importance of investigating the effectiveness of corporate governance of rapidly growing industry such as transportation sector at TAIS stems from the crucial role of this sector vis-a-vis Saudi vision 2030. This is evident in the selection of the developing the transportation and logistics as one of main objectives of vision 2030 in an effort to elevate this industry and consequently achieving the vision's key indicators to make Saudi Arabia a leading logistics hub in the region.

The reminder of the paper is constructed as follows: in the next section I am going to highlight the recent research endeavor that attempted to shed lights on the phenomenon of AC characteristics and FP. The third section will consist of a brief description of the research methodology in use, followed by a presentation and discussion of the empirical results, and finally a brief conclusion of the study.

2. Literature Review and hypothesis development

Over the last few decades, stories of prestigious multinational corporations such as, inter alia, Enron, WorldCom and Lehman Brothers contributed to a growing scrutiny regarding the watchdogs of the firms, namely ACs and auditors (Zamansky 2011; Sunderland 2010; Sikka 2008a, 2008b, 2009). This was, in part, due to the apparent malpractices of corporate directors particularly in the form misrepresenting corporate financial reality. Such practices are chiefly motivated by market incentives to meet unrealistic financial KPIs and shareholders expectations, hence enhancing the firm's performance image, particularly profitability and growth prospects (Graham et al. 2005).

The prominent agency theory proposed by Jensen and Meckling (1976) offers outstanding insights vis-à-vis management (agents) behavior where they are hired to lead daily activities and operations of the firm to, apparently, contribute to the interests of firm owners (principals). However, in fact, management of the firm may engage in opportunistic practices and exercise their power in order to achieve personal objectives. These practices are driven by economic pressures to meet market expectations, hence enhancing the firm's performance indicators, such as profitability and earnings figures (Graham et al. 2005). This issue may in turn offers additional understanding on the role of auditors in mitigating the agency problem despite critics of their economic dependence on audit clients (Sikka 2009).

On the other hand, and in a closely related oversight mechanism, AC is becoming increasingly crucial in mitigating the agency problem and safeguarding the interest of the principal through its oversight mechanism over external auditors. Recent research suggests the necessity of robust AC in an increasingly competitive and complex financial markets (Dezoort et al. 2002). This is particularly important since the external auditor is required to report directly to the AC and that such relationship offers invaluable importance in enhancing the detection of financial irregularities and elevating the audit quality (Cohen et al. 2007). Hence, the presence of robust AC is crucial in improving the performance of the firm (Aldamen et al. 2012).

2.1 AC independence

The effectiveness of AC is one of the pillars of modern corporate governance structure and embodies an oversight mechanism within corporations in an increasingly complex market (Abbott et al. 2004). However, certain characteristics of effective AC are particularly linked to achieving its overarching aims, namely AC members' independence which is expected to enable the committee to exercise its duties free from the board of director pressures (Jun Lin et al. 2008). Previous literature focused on the possible relationship between AC and FP to advance our understanding about effectiveness of AC in today's complex markets (Dezoort et al. 2002). AC is perceived to exercise its responsibilities more effectively when its composition includes more independent members (Kallamu and Saat 2015; Al-Matari et al. 2012). Independent AC members may enable the committee to act independently without pressure in overseeing the external auditor and the

financial reporting process which in turn would yield higher audit quality (Kallamu and Saat 2015; Peasnell et al. 2005). Moreover, it is generally perceived that the independence of AC would enhance financial reporting quality and lower financial fraud that is mainly committed by top management (Nekhili et al. 2016; Akhigbe and Martin 2006). This relationship is facilitated by previous research, which found that the effectiveness of ACs are more apparent at enhancing audit quality through avoiding auditor resignations (Pomeroy and Thornton 2008).

Moreover, the study by Kallamu and Saat (2015), which was conducted in the Malaysian market, documents a positive association between AC independence and FP. Other similar results were reported by Naimah (2017). Additionally, a study that utilizes a sample of the largest 20 financial firms in the G8 countries, conducted by Yeh et al. (2011), found a direct effect of committee independence on FP. The results also confirm that this relationship is stronger for civil law countries. They also found that the relationship between independence and performance is more apparent in financial firms with higher risk-taking tendencies. Nevertheless, some studies did not confirm the above results, such as the study by Kota & Tomar (2010). In their study which investigate the possible relationship between AC independence and FP of 106 mid-size Indian firms, their analysis did not find significant statistical relationship. Based on the previous literature review, I expect that AC independence will have a positive impact on FP. Therefore, the first hypothesis will be as follows:

H_1: There is a positive statistical relationship between AC members' independence and firm financial performance, ceteris paribus.

2.2 AC Meetings

Previous research demonstrates that the frequency of AC meetings is an important corporate governance oversight tool that effectively enhances the monitoring mechanism of the firm (Xie et al. 2003; Lin et al. 2006). It is believed that frequent AC meetings would prompt necessary corrective actions against auditing and accounting irregularities (Al-Matari et al, 2012). Previous research document rich insights about the impact of AC meetings on FP. Abbott et al. (2004) examine the relationship between the likelihood of financial statements restatements and AC meeting and they document statistical evidence that when firm hold at least four meetings a year the degree of financial statements restatement is lower. Moreover, another study by McMullen and Raghunandan (1996) reveals that financially distressed firms do not usually hold frequent AC meetings. Additionally, the study by Hsu (2007) offers supporting evidence about AC meetings and FP relationship which reveal a significant positive relationship. In a study conducted based on Saudi market data, Bagais and Aljaaidi (2020) find that the relationship between AC meetings and FP is negative, which contradicts the mainstream literature that confirms a positive effect. Such findings only stand for ROE model whereas ROA model did not report significant results. Therefore, based on previous review, I expect that frequent AC meetings have a positive impact on FP. The second hypothesis will then be as follows:

H_2: There is a positive statistical association between the frequency of AC meetings and firm financial performance, ceteris paribus.

3. Research methodology

The sample of this study is based on the transportation sector of firms listed on the Saudi Exchange market Tadawul All Share Index (TASI). The population consists of the transportation sector of TASI. The rational behind this selection is because that this sector is one of the highly growing sectors over the last few years. Despite such importance, this sector has not been examined before within this area of research. The sample comprises of five transportation firms over the period of ten years (2010-2019). The final observations represent 50 firm-year after excluding one firm that

was only listed in early 2021. The variables have been collected from the published annual reports which are summarized in table 1 below.

Table 1. Summary of variables

Variables	Definition	Predicted Sign
(PERF) ROE	Natural logarithm of of the net income divided by shareholder equity	D. Var
(PERF) EPS	Eearnings per share	D. Var
ACMT	Frequency (number) of AC meetings (on yearly bases)	+
ACINDR	Ratio of independent AC members (to total number of members)	+
SIZE	Natural log of firm total assets at year end	+
LEV	Ratio of firm long-term debt-to-total asset at year end	+

To analyze the collected data, this study utilizes Pooled Ordinary Least Square regression model (Pooled OLS).
The statistical model is formulated as follows:
$PERF = \beta 0 + \beta 1\ ACMT + \beta 2\ ACINDR + Control\ Variables + e$

The control variables, SIZE and LEV, were selected following several previous researches in the field (e.g., Bhatt & Bhattacharya 2017; Aljifri and Moustafa 2007; Haniffa and Hudaib 2006). Such variables account for firm characteristics which may in turn influence financial performance.

4. Empirical Results

Table 2 offers summary statistics of the variables utilized in this study. Statistics include the mean, standards deviation, minimum and maximum and the final number of observations of all variables utilized in the analysis. The table shows that the ROE mean is 0.06 with standard deviation of 0.13 and total number of observations for this variable is 50 firm-year. Similarly, the mean for EPS is 1.72 where standard deviation is calculated at 2.01. additionally, the mean of ACMT is found to be at 4.14, where its standard deviation is at 2.51. ACINDR scores a mean of 0.39 and standard deviation of 0.21. Similarly, SIZE has a mean of 9.57 and standard deviation of 5.98. finally, the LEV mean is 0.34 and standards deviation is calculated as 0.14.

Table 2. Descriptive Statistics

Variables	Mean	Standard Deviation	Minimum	Maximum	Count
ROE	0.06	0.13	-0.67	0.30	50
EPS	1.72	2.01	-6.64	5.50	50
ACMT	4.14	2.51	1	10	50
ACINDR	0.39	0.21	0.40	0.67	50
SIZE	9.57	5.98	1.83	15.19	50
LEV	0.34	0.14	0.12	0.60	50

Table 3 presents correlation matrix of the independent variables to demonstrate the statistical relationships among the utilized variables in all models reported in this study. Looking at the table we can see clearly that the independent variables do not show any signs of multicollinearity.

Table 3. Pearson's Correlation Matrix

	ACMT	ACINDR	SIZE	LEV
ACMT	1			
ACINDR	0.599	1		
SIZE	0.317	-0.156	1	
LEV	0.316	0.249	0.176	1

To test H1, which aims to examine the possible association between the independence of AC members and FP, table 4 reports the results of pooled OLS of the first model which account for the dependent variable ROE. Looking at the regression results we can see that ACINDR is negatively associated with ROE. Therefore, the results contradict previous research that document strong positive association between independence of AC members and FP (Kallamu and Saat 2015; Yeh et al. 2011; Naimah 2017). Moreover, to test H_2, as we can see from the regression results that ACMT does not has strong statistical association with ROE. This is evident in the P-value score of 0193. This finding signifies that the increase of AC meetings does not actually influence FP. Such finding does not lend support for previous research which promote a positive association between the number of AC meetings and FP (Hsu 2007; McMullen and Raghunandan 1996).

Table 4. Pooled OLS Results (ROE)

Variables	Predicted sign	Coefficients	t Stat	P-value
Intercept		0.146	2.392	0.021
ACINDR	+	-0.254	-2.092	0.042
ACMT	+	0.014	1.321	0.193
SIZE	+	-0.002	-0.568	0.573
LEV	+	-0.064	-0.4591	0.648
R Square	0.102			
No. of Obs	50			

Moreover, table 5 below provides similar results to the analysis offered in table 4 with the dependent variable of EPS that confirmed the sign and direction of ROE. Notably, the R square reported of both models are similar with 0.102 of the first model and 0.124 of the second model. These figures suggest that additional research is needed to deeply understand this phenomenon, particularly in the Saudi market.

Table 5. Pooled OLS Results (EPS)

Variables	Predicted sign	Coefficients	t Stat	P-value
Intercept		2.806	3.014	0.004
ACMT	+	0.196	1.191	0.239
ACINDR	+	-3.457	-1.871	0.067
SIZE	+	-0.126	-2.257	0.028
LEV	+	1.941	0.908	0.369
R Square		0.124		
Observations		50		

5. Conclusion

This study attempted to examine the possible association between selected characteristics of AC of transportation industry at the Saudi stock market with firm financial performance. The AC characteristics were the independence of AC members and the number of AC meetings. Using pooled OLS regression analysis and two proxies of FP, namely ROE and EPS, this study finds that the AC independence is negatively correlated with FP. Therefore, the results contradict previous research which found a positive association between independence of AC members and FP. Moreover, the results of two Pooled OLS regression analysis find that the frequency of AC meetings does not have strong statistical association with FP.

Therefore, the results provide insights for policy makers and a variety of interested parties such as investors, owners, shareholders, and creditors about the relationship between the quality and characteristics of ACs in the transportation sector and firm financial performance. The findings particularly suggest that the ratio of AC independence to the total number of members have a negative impact on the performance of the firm, holding all other variables constant. Additionally, the results also provide insights regarding the effect of the number of meeting on FP. The analysis showed no such statistical relationship which contradict some previous research that confirmed positive relationship.

Future research may attempt to examine and explore the effect of AC characteristics on FP by considering different industries within TASI. Additionally, suggested future research may attempt to investigate this phenomenon by considering the mitigating effect of audit quality attributes such as the presence of BIG4, auditor switching, and audit fees.

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Regulations Specific to Trademark Rights in the European Union and the Internal Market

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ABSTRACT: The creations that are protected under "industrial property" are, like other creations protected under the comprehensive name of "intellectual property," products of human creative activity, the fruit of thought, rational activity, and the result of man's ability to create and to perceive concepts. With regard to trademarks and geographical indications, it is initially noted that they do not constitute creations of the spirit in the true sense of the word and that their connection with "intellectual property" is rather vague, according to some authors, non-existent.

KEYWORDS: industrial property, trademarks, commercially, licensing, franchising

Introduction

The Community trade mark is a title which may be exploited commercially through licensing, franchising, assignment, etc., throughout the European Union, taking into account applications and, in general, all aspects of the internal market.

Protected Community trade marks extend their effects to the territory of the new Member States (and therefore also to the territory of Romania), and possible conflicts may arise with the trade marks which were registered nationally before the accession of that State. The principle of trademark territoriality does not prevent the case where an identical or similar trademark both in terms of name and protected products/services is registered by different owners in different states (Roș, Spineanu-Matei and Bogdan 2003, 3).

If the marks cannot coexist for various reasons, either the use of the Community trade mark on the national territory is prohibited or the national mark is sought to be annulled in court, the resolution of this possible conflict being based on the "age" of the marks.

Given that the principle of territoriality of protection was an obstacle to the free movement of goods within the European Community, as well as the fact that the national regulations of the Member States of the European Community presented certain different legal aspects, an attempt was made to harmonize Member States' national trademark laws.

In 1957, the Treaty of Rome established the European Economic Community (C.E.E.). The C.E.E. was to promote the harmonious development of economic activities between member countries, removing economic barriers. The European Union, the former European Community, has experienced a positive development, the number of member countries at the beginning at 6, has reached 27, and obstacles to the free movement of goods and services, people and capital have disappeared. In order to complete the internal market, industrial property rights had to be harmonized at Community level, using a single procedure valid throughout the European Union (Popescu, Turza and Teau 2002, 80).

As early as 1960, intergovernmental meetings, attended by other industry stakeholders as well as trustees, aimed to harmonize national legislation.

Discussions and negotiations aimed at creating a Community trade mark system were finalized through two legal working instruments:

- Directive 89/104 on the harmonization of the laws of the Member States relating to trade marks enters into force on 21.1.2.1988;

- Regulation No 40/94 of the Council of the European Union of 20.12.1993 on the Community trade mark, which entered into force on 15.03.1994.

The Directive does not achieve full harmonization of national laws, but is limited to measures necessary for the proper functioning of the internal market.

The Regulation is a supranational instrument, which applies in all countries of the European Union (Adam 2013, 101).

An independent and autonomous body called the Office for Harmonization in the Internal Market (OHIM) has been set up, based in Alicante, Spain.

Regulations specific to trademark

Protected Community trademarks extend their effects to the territory of the new Member States (and therefore also to the territory of Romania), and possible conflicts may arise with the trademarks which were registered nationally before the accession of that State. The principle of trademark territoriality does not prevent the case where an identical or similar trademark both in terms of name and protected products/services is registered by different owners in different states.

If the marks cannot coexist for various reasons, either the use of the Community trade mark on the national territory is prohibited or the national mark is sought to be annulled in court, the resolution of this possible conflict being based on the "age" of the marks.

Given both the fact that the principle of territoriality of protection was an obstacle to the free movement of goods within the European Community and the fact that the national regulations of the Member States of the European Community presented certain different legal aspects, an attempt was made to harmonize the law to the national laws of the Member States on trade marks. In 1957, under the Treaty of Rome, the European Economic Community (C.E.E.) was established, the objective of the C.E.E. to promote the harmonious development of economic activities between Member States, removing economic barriers. The European Union, the former European Community, has experienced a positive development, the number of Member States, at first 6, has reached 28, and obstacles to the free movement of goods and services, people and capital, have disappeared. In order to achieve a free internal market, industrial property rights had to be harmonized at Community level, and this was done for trademarks and design; the protection of these objects of industrial property can be done using the only procedure valid throughout the European Union (Pop, Popa and Vidu 2012, 88).

A trademark is a sign that identifies and differentiates the products and services of a natural or legal person from those of another person, and over which the owner has an exclusive right; it is valid throughout the European Union, and is registered in accordance with the relevant regulations. The EU trademark system is a system independent of my national trademark protection systems, with individuals or legal entities being able to file a national trademark application, trademark application or both (Iacob 2004).

The protected trademarks extend their effects on the territory of the new member states (therefore also on the territory of Romania), possibly occurring possible conflicts with the trademarks that were registered nationally before the accession of the respective state. The principle of trademark territoriality does not prevent the situation in which an identical or similar trademark both in terms of name and protected products / services is registered by different owners in different states. If the marks cannot coexist for various reasons, either the use of the extended mark on the national territory is prohibited or the national mark is requested to be annulled in court, the resolution of this possible conflict being based, in principle, on the "age" of the marks.

National trademarks are still necessary for undertakings which do not want the protection of their trade marks to be ensured at Union level or which are not able to obtain protection throughout the Union, while obtaining national protection is not a problem. Every person wishing to obtain the protection of a trade mark should be able to decide whether to

opt for its protection only as a national trade mark in one or more Member States or only as an EU trade mark or for both types of protection.

EU trade mark rights should not be acquired by registration alone, but should be refused in particular if the mark is devoid of any distinctive character, illicit or contrary to earlier rights. A sign should be allowed to be represented in any appropriate form using generally available technology, so not necessarily by graphic means, as long as the representation is clear, precise, autonomous, easily accessible, intelligible, durable and objective (Josserand 1933, 122).

The protection conferred by the EU trade mark, the main purpose of which is to guarantee the function of the mark of origin, should be absolute in the case of identity between the mark and the sign and between goods or services. Protection should also exist in the event of a similarity between the mark and the sign and between the goods or services. It is appropriate to interpret the notion of similarity in relation to the likelihood of confusion. The likelihood of confusion, the assessment of which depends on a number of factors, in particular knowledge of the mark on the market, the association which may be made between it and the sign used or registered, the degree of similarity between the mark and the sign and between the goods or services designated, must be the specific condition of protection.

In order to ensure legal certainty and full consistency with the principle of priority, according to which a previously registered trade mark takes precedence over later registered trademarks, it is necessary to provide that enforcement of the rights conferred by an EU trade mark should not prejudice the rights of proprietors before the filing date or the priority date of the EU trade mark. This provision is in line with Article 16 (1) of Agreement on Trade-Related Aspects of Intellectual Property Rights of 15 April 1994.

Confusion may arise as to the commercial source of the goods or services when a company uses the same or a similar sign as a trade name, in such a way as to establish a link between the company bearing that name and the goods or services from this company. Infringement of the rights conferred by an EU trade mark should therefore also include the use of a sign as a trade name or a similar name, as long as the use is intended to differentiate the goods or services.

In order to ensure legal certainty and full consistency with specific Union legislation, it is appropriate to provide that the proprietor of an EU trade mark has the right to prohibit a third party from using a sign in comparative advertising if that type of comparative advertising contravenes Directive 2006/114/EC of the European Parliament and of the Council (1).

In order to ensure the protection of trademarks and to combat counterfeiting effectively, in accordance with the international obligations of the Union within the World Trade Organization (WTO), in particular Article V of the General Agreement on Tariffs and Trade (GATT) on free transit and, as regards generic medicines, the "Declaration on the TRIPS Agreement and Public Health" adopted at the WTO Ministerial Conference in Doha on 14 November 2001, the proprietor of an EU trade mark should be entitled to prevent third parties from introducing produced in the Union in the course of trade without being released for free circulation in the Union, where those products come from third countries and bear, without authorization, a mark identical to or essentially identical to an EU trade mark for those products.

To this end, EU trade mark proprietors should be allowed to prevent, in all customs situations, the entry and placement of counterfeit products, including in transit, transshipment, storage, free zones, temporary storage, inward processing or of temporary admission, including when these products are not intended to be placed on the Union market. When carrying out customs controls, the customs authorities should use the powers and procedures provided for in Regulation (EU) No 182/2011. Regulation (EC) No 608/2013 of the European Parliament and of the Council (2) on the enforcement of intellectual property rights by customs authorities, including at the request of right holders. In particular, the customs

authorities should carry out the relevant controls on the basis of risk analysis criteria (Turcu 2004, 42).

In order to strike a balance between the need to ensure effective enforcement of trade mark rights and the need to avoid hindering the free flow of trade in legitimate products, the right of the EU trade mark proprietor should cease if, in subsequent proceedings the European Union trade mark court (hereinafter referred to as the "EU trade mark court"), to rule on the merits if a right conferred by an EU trade mark has been infringed, the declarant or proprietor of the goods may prove prohibit the placing on the market of products in the country of final destination.

Article 28 of Regulation (EU) no. 608/2013 specifies that the holder of the rights is liable for damages against the holder of the goods, inter alia if it is subsequently proved that the goods in question have not infringed an intellectual property right. Appropriate measures should be taken to ensure the undisturbed transit of generic medicinal products. With regard to international non-proprietary names (INNs), as internationally recognized generic names for active substances in pharmaceutical preparations, it is essential to take due account of existing limitations on the effect of the rights conferred by an EU trade mark. Consequently, the proprietor of an EU trade mark should not have the right to prevent any third party from introducing products into the Union without their being released for free circulation in the Union, on the basis of similarities between INNs for the active ingredient in medicinal products and that trade mark.

In order to enable EU trade mark proprietors to combat counterfeiting effectively, they should have the right to prohibit the affixing of a counterfeit mark on products and the preparatory actions taken prior to that application.

The exclusive rights conferred by an EU trade mark should not entitle the proprietor to prohibit the use by third parties of signs or indications which are used correctly and therefore in accordance with fair industrial and commercial practices. In order to ensure a level playing field for trade names and EU trade marks in the event of a conflict, given that trade names are regularly granted unlimited protection against subsequently registered trademarks, such use should be considered to include only use of personal names of third parties. It should, in addition, allow for the general use of descriptive or non-distinctive signs or indications. Furthermore, the proprietor of an EU trade mark should not be entitled to prevent its correct and fair general use in order to identify or refer to the goods or services as belonging to the proprietor.

It follows from the principle of the free movement of goods that it is essential that the proprietor of an EU trade mark must not prohibit a third party from using it for goods which have been marketed in the European Economic Area, under the trade mark, by himself or with his consent in which legitimate reasons entitle the holder to oppose the subsequent marketing of the products. In order to ensure legal certainty and protect the rights conferred by legitimately acquired trademarks, it is appropriate and necessary to provide, without prejudice to the principle that the later trade mark is not opposable to the earlier trade mark, that EU trade mark proprietors he should not have the right to oppose the use of a later mark if the later mark was acquired at a time when the earlier mark was not opposable to the later mark.

The protection of EU trade marks and the protection against them of any previously registered trade mark shall be justified only in so far as such trademarks are actually used.

For reasons of fairness and legal certainty, the use of an EU trade mark in a form which differs in elements which do not alter the distinctive character of the trade mark, in the form in which it is registered, should be sufficient to maintain the rights conferred has been recorded or not in the form in which it is used.

The EU trade mark should be treated as an object of property right independent of the undertaking whose goods or services it designates. Accordingly, the mark should be transferable, guarantee able to a third party and licensed.

The establishment of the EU trademark system has increased financial pressure on central industrial property offices and other Member State authorities. The additional costs are related to the management of a greater number of opposition and nullity proceedings involving EU trade marks or are introduced by the proprietors of such trademarks; awareness-raising activities related to the EU trademark system; as well as activities to ensure that the rights conferred by EU trade marks are respected.

It is therefore necessary to ensure that the Office compensates part of the costs incurred by the Member States for the role they play in the proper functioning of the EU trade mark system. The payment of this compensation should take into account the submission of appropriate statistical data by Member States. Compensation for costs should be made at a level that does not lead to a budget deficit for the Office.

In order to ensure the full autonomy and independence of the Office, it is considered necessary to grant it an autonomous budget whose revenues consist mainly of fees due by users of the system. However, the Union budgetary procedure continues to apply as regards any subsidies chargeable to the general budget of the Union. On the other hand, the Court of Auditors is required to verify the accounts.

In order to pursue the above-mentioned objectives of the Union, it is necessary to provide for a Union trade mark regime which confers on undertakings the right to acquire, under a single procedure, EU trade marks which enjoy uniform protection and have effect throughout the Union. The principle of the unitary character of the EU trade mark, thus expressed, should apply unless otherwise provided in this Regulation.

The approximation of the laws of the Member States does not make it possible to remove the obstacle to the territoriality of the rights which the laws of the Member States confer on trade mark proprietors. In order to enable undertakings to pursue an economic activity throughout the internal market without hindrance, it should be possible to register trademarks governed by uniform Union law, which are directly applicable in all Member States.

Experience with the establishment of the Community trade mark system has shown that companies in the Union and in third countries have accepted the system, which has become a viable and successful complement and alternative to the trade mark protection provided at Member State level.

By registering the Community trade mark, a single title is obtained which ensures unitary protection throughout the territory of the European Union and which produces the same effects as a whole. Consequently, the registration, transfer or abandonment of the trade mark will have automatic effect in all Member States of the European Union, and decisions on the validity and rights conferred by a Community trade mark will have unitary effect (Deleanu 2002, 51).

Community trade mark protection is neither binding nor exclusive, providing for the possibility for companies which are not interested in the protection of trade marks in the territory of the Union to protect their trademarks nationally or internationally. Community macaque does not replace the national trade mark or the international trade mark, being an independent system of protection.

Conclusions

Any Community trade mark which could not be registered may be converted into a national trade mark. This transformation requires the filing of the same application with the national offices where there is no obstacle to registration, the application benefiting from the filing date of the Community trade mark or the national registration whose seniority has been claimed, as the case may be. An obstacle to the registration of a Community trade mark could be, for example, the existence of an earlier right in one or more EU countries or the fact that

in the language of one of those countries the trade mark has a meaning which makes it descriptive in relation to the goods and the services for which registration is required.

The national trade mark application resulting from the conversion of a Community trade mark shall retain the same filing date or the same priority date as the Community trade mark.

Applicants domiciled in the European Union may file trademark applications in person or by proxy. Applicants domiciled outside the European Union must apply by proxy in any country of the European Union.

The procedure for registering a Community trade mark application consists of three stages: filing the application, examining the application and publishing the application.

After a formal examination of the Community trade mark application and the absolute grounds for refusal, OHIM shall carry out an investigation of the trade mark in its own Community trade mark register and draw up a research report indicating the earlier marks which may be opposable.

Within one month of receipt of the prior reports, the Office shall publish the Community trade mark application and communicate it to proprietors of Community trademarks or applications in order to inform them of a possible conflict between the published application and their trade mark.

Any natural or legal person, such as groups representing manufacturers, producers, service providers, traders or consumers, may, after publication of the Community trade mark application, submit written observations to the Office stating the reasons why the trade mark should be refused ex officio.

Where the application satisfies the provisions of the Community trade mark Regulation and no opposition has been filed within the legal time limit or the opposition has not been admitted, the trade mark shall be registered and published as a Community trade mark, subject to payment of the registration fee, within two months communication.

Upon receipt of the registration fee, the mark applied for is registered in the Community trade mark register and the registered trade mark is published in the Community Trade Marks Bulletin and the applicant receives a certificate of registration.

The validity of a Community trade mark is 10 years and may be renewed indefinitely for a further period of 10 years, subject to time limits and payment of the renewal fee. The change of trademark during the registration or renewal procedure can only be done if it does not substantially affect the trademark.

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The Concept of Jurisprudence in Algerian Law

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ABSTRACT: After its independence (1962), Algeria opted for a legal system of written law attached to the Roman-Germanic family. The young republic was to generate legal innovations of which the concept of *jurisprudence* was to be the witness. Our contribution attempts to evaluate the concept of jurisprudence through its legal thought of French law and as defined and conceived in the tradition of the Muslim legal doctrine that was present in Algeria before and during colonization. This will give us the underline the importance of *nawazil*, a kind of "ruling jurisprudence", where the *massail* (cases) and the motivation of the resolutions of these cases are recorded. These written collections of several great Maghrebian jurisconsults inspired the decisions of the *qadi* (judge) in order to render the most just, equitable and rational justice possible. The place of *nawazil* in the practice of *qadat* (judgment) that existed in Algeria before and during colonization will allow us to shed light on the place of jurisprudence in Algerian law – a very poorly documented issue, indeed. An overview of the historical evolution of the legal systems that coexisted for a long time during this period will prove to be very useful.

KEYWORDS: jurisprudence, Algeria, nawazil, qadat, Muslim law

Introduction

Algeria, a country located geographically to the north of the African continent, has evolved in the Arab-Muslim legal doctrine known as "Malikite" for more than ten centuries. Following its independence from France in 1962, it maintained the French legal system of written law, attached to the Romano-Germanic family. However, the young republic is still faced with the adoption of a legal system bequeathed by a colonization of 132 years but which is superimposed on an Arab-Muslim heritage. This hybridization will manifest itself in the notion of *jurisprudence* which we will discuss in what follows.

J.P. Andrieux (2012, 10) defines jurisprudence as fluctuating over the centuries, it presents itself as a gift that each era receives and adapts. This variation seems to take hold of the very definition of *jurisprudence* as well as its role in different legal systems through its evolution. It encompasses, in fact, the notions of *knowledge*, *science*, even *reason* to be restricted from *jurisprudential solutions,* in contemporary law.

Jurisprudence in Algeria: an ancestral tradition

Long before the French occupation, there was a legal institution, the *cadat*, inherited from the Arab-Muslim Maghreb (from the 7th to the 15th centuries) and from its legal doctrine. This institution was maintained even during the Ottoman reign (1512-1830) when justice was entrusted to the representatives of the sultan (*Dey, Bey, Pasha)*. The latter were delegated in criminal matters by the *Qaid* and the *Agha* (Laugier de Tassy, 1725) and in civil matters by the Cadis. Two main rites served as a guide: the *Malikite* and the *Hanafite* (Emile Tyan, 1968, 155). This delegation, source of political power, confers on the cadi, judicial and extrajudicial attributions: he was at the same time notary, executor, curator, civil registrar, protector of incapable persons, responsible for the division of inheritances, administrator of habous property (properties managed by an institution), inspector of streets and buildings, supervisor of witnesses and trustees. L. Horre (1934, 24) qualifies such attributions of “universal jurisdiction.” We will only retain the competences of rendering justice which is the object of our analysis.

The rules of Muslim legal doctrine impose themselves as a source for the *cadi* responsible for judging disputes under his responsibility. Two of these rules will be discussed. (1) the "knowledge of legal science", one of the seven conditions of aptitude for judicial office; (2) the *Ijtihad* (jurisprudence) methods of rendering justice – and this rule responds to the concern of our present study.

The capacity of ijtihad

According to the *fikh* doctrine, the knowledge of legal science implies knowledge of the permissible (lawful), the forbidden (the illegal) and the science of the roots of law. The later include the *Koran*, the *sunnah* (tradition of the Prophet), the exegesis of the *Koran* and the *sunnah* according to the rules of *ijmaâ* (the interpretation set by the oldest). To this knowledge, we must add the science of analogy (*al-qiya*s) which makes it possible to decide when difficulties arise which do not present any solution, neither in the *Koran*, nor in the *sunnah* or *Ijmaa*.

This knowledge is presented by a large number of Muslim authors as a condition of investiture to the *cadat*. Al-Mâwardî (eleventh century) insists particularly on the knowledge of legal science. The latter not only involves knowledge of the texts, but also the ability to deduce, by the orthodox method of reasoning, the appropriate solutions; this is called the ability of *ijtihad* (to become *mujtahid*). According to Al-Mâwerdî (E. Fagnan, 1915) the very appointment of a non-mujtahid cadi is automatically null, as are its judgments. Thus, M. Daoualibi (1941,7) argues that “Islamic jurisprudence can be taken from the habit of judging a question in such and such a way, and from the interpretation of the law.".

Literally, *ijtiad* (jurisprudence) is the effort made by means of inductive reasoning by the *cadi* to provide solutions to new questions; which are not mentioned either in the *Koran* or in *Sunna* as noted by Bazdawi (1890, 14). The Arabic word *Ijtihad* derives from the root *Ijtahada* which means "to make an effort". We say "Ijtihada ra'iahou", which means "to force your reason to put all your efforts". It happens that the term ha synonyms such as: *ra’i* (reasoning), *aâql* (reason), *qiyas* (inductive reasoning).

Finally, we will underline the role played by philosophy which rationalized the *ijtihad* through the thought of Ibn Rusd (Avéores), jurist and Andalusian cadi of the 12th century. We ow him the translation of *al-qiyâs* by “logical interpretation”. From his *Bidaya* - cited by Langhade, D. Mallet, (1985, 114), his work can be matched with: "the logical argument in contradiction with the fact"; "the incompatibility between the letter and the spirit of the law"; "the reconciliation between text and logic".

However, two rational and traditional tendencies emerge and lead to dividing jurisprudence (*ijtihad*,) into two main schools, according to (Al-Khoudari, 1999): the Iraqi school, having Abu Hanifa for founder, and the school of Hedjaz, having for founder Malik Ibn Donkeys.

The Hanafi school bore the imprint of the rational school taught by Ibn Mas’ud Abu Hanifa. He had the reputation to favor abundant discussions and free reasoning which he practiced unceasingly, in his classes and with his disciples. He pushed quite far inductive reasoning, and developed the Koranic and prophetic principles with a rigorous concern for logic. This is particularly noticeable in the application of the principles of *fairness* and *good faith*; principles that we will find later in the reasoning method of French judges in Algeria.

The Malikite school, for its part, begins in Medina, the seat of the Prophet. Malik Ibn Anes (d. 795) sets up an organized legal system. From his treatise *Mwatta*, derives a jurisprudence based on the "tradition" of the Prophet, which intervenes as a legal "argument". It deals with worship and general law. This school is attributed a “traditional” characteristic.

We will retain that it was Malikism that spread more particularly in Maghreb and Andalusia, due to the fact that it was Malik's disciples who were the most active there, from the end of the 8th century. M. Ghalem (*2006, 31*) mentions the Kairouanese Sahnûn (died in

854) who wrote a great work entitled *Mudawwana*, in which he explained the content of the *Mwatta* of Malik. In the tenth century, Ibn Abî Zayd al-Qayrawani wrote another important Malikite text called the *Risala*, which was more accessible, referring to *ra'y*, that is to say the possibility of choosing between the opinions previously expressed by the authorities to resolve this or such case.

Doctors of Muslim law consider that the rules of all its schools, taken as a whole, constitute a science called "the science of the sources of law". The jurisprudence, *ijtihad*, conceived in Islamic law, presents an entirely new character in the history of jurisprudence. This is why L. Horrie (op cit, 36) amazingly wrote about the *cadis* of this time: “The *cadi* is eminently what was the *praetor* among the Romans, a judge no doubt, and more than a judge: a sort of empirical legislator; a living embodiment of justice, right and law. "

Doctors of Islam distinguish (M. Daoualibi, op cit, p 113), in the field of jurisprudence, between interpretation, *al-bayan*, and inductive reasoning, *al-qiyas*. The first tends to clarify the meaning of the text in play to know if it could frame the question asked, while the inductive reasoning tends to identify the determining causes of the solutions mentioned or to clarify the spirit of the law, which offers principles of justice helping to resolve the question posed.

The role of the Nawâzil

Unlike Middle Eastern jurists, Maghrebian and Andalusian jurists keep records of jurisprudential cases by noting collections of legal consultations issued by jurists. Thus, between the 10th and the 15th centuries, consultations on concrete and unprecedented cases which make jurisprudence, were gathered in collections known as “Nawâzil”.

According to a study conducted by Muhamed Ben El Hassen Elhajoui Eltaâlibi El Fassi, the tradition of the Nawâzil went through three periods. The first period, between the 9th and 10th centuries, saw an abundance of case law and legal consultations. The second period from the 11th to the 14th centuries is known to be the period of the transcriptions of the Nawâzils, which allowed the birth of a science called "fikh el nawâzil" defined as a science of application of the *fikh*. This is the applied scientific aspect of theoretical jurisprudence.

This science is characterized by realism because it deals with typical cases of facts already produced and by the proportionality of judgments linked to its local character. It is also characterized by its continuous renewal due to the principle of *Ijtihad* and deduction. One can say that such an intellectual operation represented a continual challenge to the *cadi*.

The researcher Maria Jesùs Viguera, quoted by P. Guichard (1999, 49-50), estimates the number of these collections of legal consultations at 83 Nawâzil. To take just a few examples, let us mention the most accessible, as is the case with *Mi’yâr* of al-Wansharîsî which contains more than 2.000 summaries of legal consultations issued by Maghrebian and Andalusian doctors, between the tenth to the 15th century. Let us also mention the *Nawâzil Mâzûna* of Abû Zakariyyâ 'Yahyâ Ibn Abû' Umrân Mûsâ Ibn 'Îsâ al-Maghîlî al-Mâzûnî (died in Tlemcen in 1478). This book edited at the end of the 15th century is a collection of fatwas issued by jurists from Tunis, Bougie, Algiers and Tlemcen. Nearly three quarters of these fatwas date from the 14th and 15th centuries.

This is how legal thought was presented in Muslim law applied by the *cadis* of the Maghreb, of which present-day Algeria was part through its history. A thought and methods of rendering justice, which continued to evolve through the main actors, the *cadis*, and through the trainers of the latter. Of all these historical facts, we can remember the interest given to the instruction of the *cadis*. All had to fulfill the condition of knowledge of legal science and the ability to issue opinions on interpretations (*ijtihad*) when a new case not studied in the jurisprudence of the four Imams presented itself to them. In our opinion, the

decline of this case law, a legacy of more than ten centuries, is rooted in the integration of the *cadat* into the French judicial system.

The reasons for the decline of the jurisprudence of the cadis during colonization

Colonial France (1830-1962) defended the principle of substitution of local laws to French laws as soon as a country was annexed to it. This principle of assimilation was not applied at the start of the conquest of the Algerian population. France chose rather to defend the cohabitation between the judicial institutions in place of the *cadis*, the *djamaâ* Kabyle or Mozabite and the *rabbis* and the ones it was gradually putting in place. According to the analysis of Ch. Roussel (1876,3), the cultural differences of the Algerian population that forwarded this decision.

From this duality of judicial institutions, it follows that, apart from the laws of public order which were applicable to all, the laws of private right were subject to the jurisdiction and the law of each community (Muslim, Kabyl, Mozabite, Jewish).

In the continuity of the historical development of judicial institutions, another form of justice is being set up, a "justice of peace with extended jurisdiction". It was entrusted to a French judge who was required to rule in accordance with the law and customs of each community. We will consider, in respect of the limits of our presentation, two main reasons: (1) the cohabitation between several institutions and endless reforms; (2) the intellectual capacities of the various judges.

The integration of the *cadat* into the French judicial system

The ordinance of August 10, 1834 integrates the *cadi* into the framework of French justice and its ministry of justice, and provides that the judgments of *cadis* are subject to appeal to the Court of Algiers. The ordinance of September 26, 1842 on the organization of justice in Algeria requires *cadis* to judge in the name of the King of the French.

However, the integration of the *cadis* brought about a separation later on (decree of the executive power of August 20, 1848) and the justice of the *cadis* was attached to the Ministry of War. This desire for separation between French justice and Muslim justice is concretized by decree of October 1, 1854, under the emperor Napoleon III as noted by L. Horrie (op. Cit., 93). The territory was divided into constituencies of *mahakmas* (courts) to ensure the execution of decisions. This gave the *medjless* jurisdictional sovereignty of appeal, when it only had an advisory opinion. In addition, a Superior Council of Jurisconsults was created.

These changes gave rise to a broad protestation on the part of certain French jurists who considered the independence of Muslim justice as an "error," F. Godin (1900). The decree of December 31, 1859, re-establishes the connection of the Muslim institution to French justice and withdraws from the *medjless*, the power of appellate jurisdiction, without suppressing them (it recovered its advisory opinion), and puts the appeal to the jurisdiction of the Court of Algiers.

A little later, the decree of 1866 marked a new milestone in the history of justice in Algeria. This decree reviews the organization of justice for the *cadis* (their status, their recruitment, the rules for their advancement, etc.), but even more, proposes a new form of jurisdiction option for Muslims: recourse to justices of peace which abide to the norms of Muslim law. These judges come into competition with the *cadis*. In addition, the decree of November 11, 1875, abolished the Superior Council.

The powers of the *cadis* are revised several times by restrictive measures. The *cadi* is reduced to a simple judge of exception; a loss of powers which will be confirmed by the law of August 4, 1926, and the ordinance of November 23, 1944. These last ordinances once again offer to the Muslim litigant the option of jurisdiction and legislation, therefore the choice to seek justice to the justice of peace on matters hitherto reserved for the jurisdiction of the *cadi*.

The number of *cadis* is restricted, and their fields of competence lack clarity. According to Sefta (2005, 297), it is due to "applying a law that has become theoretical." To this one should add the new reorganization of justice and its auxiliaries (the ordinance of April 10, 1843, declares the code of civil procedure applicable to Algeria and creates notaries and bailiffs): which creates the functions of notary, notary clerks, and bailiff. The *cadis* end up losing notarial and enforceable powers (law of December 30, 1959).

The conditions of investiture to the *cadate* during the colonial period

To meet the need to consider the *cadis*' intellectual potentials during this period, one should account for the extent of the power of intervention of these judges, of their competence, and of their methods of rendering justice.

As the jurist and sociologist J.P. Charnay (2005) already observed in a study (1963, 716) devoted to the role of the French judge in the development of Algerian Muslim law, published in, an explanation of the evolution of jurisprudence could be found in the very training of these magistrates. Such as the knowledge and ability of the *Ijtihad* (already mentioned), gradually lose their strength during the French occupation. The French authorities tried to regulate the status of the *cadi* (decrees of December 13, 1866, and those of 1886 and 1889). But it is curious to note that, in the choice of the latter, the elementary conditions were deliberately neglected, hence a progressive decline of his competence.

The question of the link between the competence of the *cadi* and the quality of his interpretations was raised by a large number of judges. One of them, C. Frégier (president of the court of Sétif in 1862) notes in his pamphlets (1862) "the considerable interest attached to the choice of *cadis*, both for the good of the indigenous populations and for the future of Algeria, of Muslim justice and of its influence." This judge did not fail to express his indignation at the disinterest of the French power to the conditions of access to the Muslim magistracy.

The decadence of the cadis was such that many other Muslim jurists reacted. In a report addressed to the governor general on June 6, 1934, the cadi Ben Habylés (Senator of Constantine from 1951 to 1959, he also exercised the function of cadi notary in Drael-Mizan), reacted to this degradation. The outrage continued despite a significant number of reforms. The *cadis* were reduced to simple officials of the French state, their appointment was under the responsibility of the minister of Algeria.

Sefta, who was a *bach'adel* (clerk) in the Mahakma of Algiers-Sud, underlines the extent of the difficulty of living in Algeria at that time and links it to "the suffering of the organization of Muslim justice". However, the cadis did not cut themselves off from legal life, they organized themselves into an association (the Association of Cadis of Algeria) and expressed their fears that the reform of Muslim justice would constitute a definitive abolition of their powers. Algeria's colonial justice system continued to evolve during more than a century of occupation. From 1870, the Algerian judicial organization got more and more modeled on that of France.

Conclusion

Independent Algeria has chosen a legal system of written law. In this type of system, it is according to the law and in respect for the principles of legality and equality that the judge must resolve disputes.

These principles, so much advocated and dear to the Arab Muslim jurisprudence have been reinforced by the latest Algerian Constitution (2020) in the provisions of article 140 which provides "justice is founded on the principles of legality and justice. It is equal for all, accessible to all and is expressed through respect for the law." Legality is thus associated with

justice because it must promote certain values which justify the role it is given, the reference of the obligation to judge.

This obligation, which is part of the exercise of the office of judge more than half a century after independence, extends this laborious march of the judge "cadi of another time". When the judge rules, in the event of silence or insufficiency or lacuna in the law, he/she rules according to a standard, a principle. The solution given can only be the expression of a value judgment, the expression of a preference, the recognition of a certain form of fairness, the content of which would be reflected in its motivation. Motivation guaranteed by the constitution in article 144: “court decisions are motivated and pronounced in public. Judicial orders are motivated."

This post-independence case law, in our view, is part of the course of jurisprudence that echoes the needs and interests of society. It still thrives, as it did before, in the midst of what A. Mahiou (2008) called "a singular right", qualified, in another era, as "complex law." We should therefore be careful about all this in the future, because the independence of the judge is important in all respects and it is not a question of leaving one addiction to fall under another."

Finally, and to close our present contribution, we cannot resist to the desire to appeal to this quote from Ferrière, in 1769, bout jurisprudence: "We should therefore not be surprised if reason makes us regard jurisprudence as the human society’s firmest support and beautiful ornament."

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Use of Undercover Investigators and Collaborators in Investigating Corruption Offenses

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ABSTRACT: Corruption is a threat to the stability and security of societies, undermining democratic institutions and values, ethical values and justice, and compromising sustainable development and the rule of law. Art. 19 of the United Nations Convention against Corruption, adopted in New York on 31 October 2003, recommends that States parties consider the adoption of legislative and other have been committed intentionally, the act of a public official abusing his functions or position, for example to perform or refrain from performing, in the exercise of his functions, an act in violation of the law, in order to obtain an improper benefit for himself or for another person or entity. The emergence of the legal framework governing the activity of undercover investigators was unanimously determined by the need to fight atypical forms of crime, which carry out their activity in an organized and "hermetic" way, so that the activity of proving criminal acts by normal methods becomes especially difficult, if not impossible. The objectives of using the undercover investigator or the collaborator are to obtain data and information about the criminal activity, to obtain evidence that will be used in the criminal process. In practice, the undercover investigator or collaborator may carry out activities to establish whether the crime of which a person or an organized criminal group is suspected has been committed, is in progress or in the preparatory phase, identification of members of the group of offenders, identification some accomplices, the identification of witnesses, the identification of the places where the goods from the crimes are hidden, the identification of the places where the victims of the crimes are, the specification of propitious moments for carrying out searches or arrests, etc.

KEYWORDS: corruption, special investigative methods, the use of undercover investigators and collaborators, the provocation

Introduction

Etymologically, "corruption" comes from the Latin "corruption" which means to break, to destroy by antithesis with "integrity", which translates into totality, fullness.

The latter can be seen as "a moral principle with multiple personal virtues (honesty, courage, sincerity), but also social because it involves more than the coherence of commitments and action, respectively compassion and awareness of society as self-integration."

Corruption could therefore be translated as the destroyer of totality, fullness, honor (Iordache and Banciu 2020, 11). Corruption, in a broad sense, as well as criminal corruption, in particular, is related to the abuse of power and the incorrectness in making a decision at the public level. In essence, corruption is the misuse of public power in order to obtain, for oneself or for another, an undue gain, involving:

- Abuse of power in the exercise of official duties;
- Disorganization;
- Fraud (deception and prejudice of another person or entity);
- The use of illicit funds in the financing of political parties and electoral campaigns;
- Favoritism;
- Establishing an arbitrary mechanism for exercising power in the field of privatization or public procurement;
- Conflict of interest (by engaging in transactions or acquiring a position or a commercial interest that is not compatible with the official role and duties) (Ciuncan 2017, 28).

Other definitions of the phenomenon of corruption have been formulated by various international bodies:

The Council of the Organization for Economic Cooperation and Development (OECD), 1998, defines corruption as "bribery involving direct or indirect supply or undue use, pecuniary or other advantage to one or a foreign official, for breach of duty, to favor or obstruct the conduct of a business".

The Criminal Convention of the Council of Europe on corruption, signed by Romania in 1999 (ratified by Romania by Law 27/2002, published in the Official Journal no. 65 of January 30, 2002), defines it by the two ways of committing it, active and passive.

Active corruption consists in "proposing, offering or giving, directly or indirectly, any undue advantage to one of his public agents, for himself or for someone else, for him to perform or refrain from performing an act in the exercise of its functions." (art. 2)

Passive corruption consists in "the act of one of its public agents to claim or receive, directly or indirectly, any undue advantage for himself or for anyone else, or to accept an offer or promise of an advantage in order to perform or obtain refrains from performing an act in the exercise of its functions." (art. 3)

The preamble to the above-mentioned convention states that corruption is "a threat to the principles of the rule of law, democracy and human rights, undermines the principles of good administration, equity and social justice, distorts competition, impedes economic development and jeopardizes the stability of democratic institutions and foundations, morality of society".

Transparency International defines corruption as "abuse of power for personal gain", while the United Nations Convention against Corruption adopted in New York on 31 October 2003 (ratified by Romania by Law 365 of September 15, 2004, published in the Official Journal no. 903 of October 5, 2004), the most important universal instrument in the field under review, does not provide a definition for corruption. This convention is based on the assumption that the concept is constantly changing and that, by its nature, it includes multiple approaches. The Convention takes a descriptive approach that covers various forms of corruption that currently exist, while providing a framework for forms of corruption that may arise in the future. States Parties to the Convention will criminalize the following offenses: bribery, influence peddling, abuse of office, illicit enrichment (including in the private sector), money laundering, concealment, and obstruction of justice.

It has been pointed out in the literature that among the main factors that determine the occurrence of corruption can be listed: political and administrative/financial instability, instability and lack of predictability of legislation, inefficiency of financial control actions, inadequate pay of corrupt subjects, insufficient endowment of the police apparatus in many states of the world, superficial and one-dimensional treatment of corruption - in terms of political interests, group, as electoral goods, etc. (Iordache 13).

Regarding the types of corruption, several classifications are possible, which are not out of criticism precisely due to the complex nature of the corruption phenomenon:

Major and minor corruption

There are three criteria to differentiate major corruption from minor corruption:

a) The hierarchical position occupied by the perpetrator

Major corruption is the so-called political or high-level corruption, which is found at the level of the governing bodies of the state 112, ie those that make up policies, strategies, laws. Political corruption covers a wide range of practices, from illegal financing of political parties and election campaigns, to buying votes or trafficking in influence of politicians or those elected to public office. These people can use their official position to improve their own well-being (for example, a normative act is issued for the 24-hour tax exemption of imports of certain goods by certain companies with which politicians are in contact or manipulate privatization processes, modifying normative acts by removing or illegally adding texts), or to improve their status or their own power (buying a seat in elections, buying votes).

Minor corruption is bureaucratic or administrative corruption, which occurs at the level of public administration, obliged to apply public policies and laws created by politicians. It meets every day, where the citizen has direct contact with officials, including those in justice area. This type of corruption most often occurs through bribery. The sum amounts vary, but they are usually small. It is specific to countries in transition.

b) The value of the object of the act of corruption

Major corruption can occur, for example, in the field of public procurement, as opposed to the small corruption encountered at customs, payment of taxes, obtaining authorizations, permits.

c) The degree of impact of the act of corruption

The impact of the act of corruption can be extended, such as the illegal hiring of a lighting company that can harm all taxpayers in a city, or individually, such as bribing a counter official who only affects the bribe-taker and those who requests the issuance of a similar license.

Systemic and sporadic corruption

Systemic (endemic) corruption is corruption that is an integral and essential part of the economic, social and political system. Practically, most institutions and activities are used and dominated by corrupt individuals and groups of corrupt individuals and there is no alternative for citizens than to accept and get involved in these acts of corruption. Compared to a single institution, systemic corruption occurs when its entire organization, culture, or leadership allows for corrupt practices, closes its eyes to these acts, and even encourages such inappropriate behavior.

Sporadic (occasional) corruption occurs irregularly, occasionally, and affects not the mechanism, but the individual, affecting only the morale of those involved. In these cases, one cannot speak of a network, not even at the territorial level.

Functional and dysfunctional corruption

Functional corruption aims to facilitate the legal fulfilment of certain acts, it is committed to "anoint" the mechanism of bureaucracy. The amounts circulated are small, being rather a matter related to culture, the society itself sometimes legitimizing such conduct (Russia, South Korea, Turkey). Dysfunctional corruption is corruption that has the effect of making activities more difficult. The benefits offered/received in this case have a high value.

Corruption in the public sector and in the private sector

Corruption in the public sector is what includes:

- administrative corruption: concerns the activity of local and central public administration, customs authorities, health and social assistance, culture and education, institutions in the field of defense, public order and national security;
- corruption in the judiciary: concerns the judicial authorities, prosecutor's offices and courts;
- economic corruption: it is found especially in the financial-banking field, in agriculture, forestry and in some branches of industry, metallurgy-steel, as well as in oil processing and trading;
- political corruption: it is mainly related to parliamentary activity and political parties: the negative effects of parliamentary immunity, the influence of legislative initiatives, the financing of political parties and electoral campaigns.

Corruption in the private sector involves commercial activities carried out by national companies or multinational companies. It affects fair competition and the rules of the market economy, decreases the quality of products and services, decreases economic investment. Corruption acts often involve civil servants (private-public bribery), bribes to grant tax facilities or certain contracts to companies, from small acquisitions to arms production contracts and concessions for the exploitation of natural resources.

Active corruption and passive corruption

Active corruption consists in proposing or offering benefits to the decision maker (bribery, buying influence). Passive corruption consists in accepting these benefits (taking bribes, receiving undue benefits, trafficking in influence) (Danileț 2009, 54-58). The author also mentioned a classification of corruption: Black, grey and white corruption. Black corruption refers to behaviors repudiated by both public and elite. Grey corruption concerns the condemnation of corruption desired only by the elites of society. White corruption concerns antisocial acts or behaviors whose sanction is not desired by any social category, corruption being found tolerable. This includes lobbying, but also small "attentions" (for example, flowers) given to the teacher, doctor, etc.

The commission of corruption offenses has a certain specificity, in the sense that they are generally committed in the absence of witnesses and involves a small number of people, so it is necessary to resort to certain specific methods of discovery and investigation.

Incrimination of corruption in Romanian criminal law

According to the Romanian Criminal Code, receiving bribery (art. 289), giving bribery (art. 290), influence peddling (art. 291) and buying influence (art. 292) are crimes of corruption.

The crime of bribery consists in the act of the public servant (see art. 175 of the Romanian Criminal Code regarding the sphere of persons considered public servants) who, directly or indirectly, for himself or for another, claims or receives money or other benefits that are not due to him or accepts the promise of such benefits, in connection with the fulfilment, non-fulfilment, urgency or delay in the performance of an act falling within its duties or in connection with the performance of an act contrary to such duties (passive corruption).

The deed mentioned above, committed by one of the persons provided in art. 175 par. 2 (see art. 175 par. 2 of the Romanian Criminal Code regarding the sphere of "assimilated officials", for example, there are assimilated civil servants' notaries public, bailiffs, judicial experts, insolvency practitioners) of the Romanian Criminal Code constitutes an offense only when it is committed in connection with the non-fulfilment, delay of the fulfilment of an act regarding its legal duties or in connection with the performance of an act contrary to these duties.

The crime of bribery consists in the promise, offering or giving of money or other benefits, under the conditions shown in art. 289 of the Romanian Criminal Code (active corruption).

Trafficking in influence consists in claiming, receiving or accepting the promise of money or other benefits, directly or indirectly, for oneself or for another, committed by a person who has influence or is believed to have influence over a civil servant and who promises that it will cause him to perform, not to perform, to hasten or delay the performance of an act which enters into his duties or to perform an act contrary to these duties.

The purchase of influence consists in the promise, offering or giving of money or other benefits, for oneself or for another, directly or indirectly, to a person who has influence or lets one believe that he has influence over a civil servant, to determine him to perform, not to fulfil, to hasten or delay the fulfilment of an act that enters into his duties or to perform an act contrary to these duties. The above acts also constitute offenses if committed by private officials, the penalties applicable to them being reduced by one third compared to those applicable to public servants.

Law no. 78 of May 8, 2000 for the prevention, detection and sanctioning of acts of corruption, published in the Official Journal 219 of May 18, 2000, establishes measures for the prevention, detection and sanctioning of acts of corruption. According to this law, which criminalizes the corruption offenses regulated by art. 289-292 of the Criminal Code committed by the persons provided in art. 1 of that law, are considered as crimes assimilated to those of corruption the facts provided in art. 10-132.

Competence to investigate corruption offenses

By Government Emergency Ordinance no. 43/2002 regarding the National Anticorruption Directorate, published in the Official Journal no. 244 of April 11, 2002, Part I, the National Anticorruption Directorate was established, a structure with legal personality within the Prosecutor's Office attached to the High Court of Cassation and Justice, based in Bucharest and exercising its powers throughout Romania through specialized prosecutors in investigating corruption offences.

According to art. 13 of the Government Emergency Ordinance no. 43/2002, are within the competence of the National Anticorruption Directorate the offenses provided in Law no. 78/2000, with subsequent amendments and completions, committed in one of the following conditions: a) if, regardless of the quality of the persons who committed them, they caused a material damage greater than the RON equivalent of 200,000 euros or if the value of the amount or of the good that is the object of the corruption crime is higher than the equivalent in lei of 10,000 euros b) if, regardless of the value of the material damage or the value of the amount or the good that is the object of the corruption crime, they are committed by: deputies; senators; Romanian members of the European Parliament; the member appointed by Romania in the European Commission; members of the Government, Secretaries of State or Undersecretaries of State and their associates; advisers to ministers; the judges of the High Court of Cassation and Justice and of the Constitutional Court; the other judges and prosecutors; members of the Superior Council of Magistracy; the president of the Legislative Council and his deputy; The People's Advocate and his deputies; presidential advisers and state advisers within the Presidential Administration; the state advisers of the prime minister; members and external public auditors of the Romanian Court of Accounts and of the county chambers of accounts; the governor, first vice-governor and vice-governors of the National Bank of Romania; the president and vice-president of the Competition Council; officers, admirals, generals and marshals; police officers; the presidents and vice-presidents of the county councils; the general mayor and deputy mayors of Bucharest; mayors and deputy mayors of the sectors of Bucharest; mayors and deputy mayors of municipalities; county councillors; prefects and subprefects; the heads of central and local public authorities and institutions and the persons with control functions within them, with the exception of the heads of public authorities and institutions at the level of cities and communes and the persons with control functions within them; lawyers; Financial Guard commissars; customs staff; persons holding management positions, from the director including, within the autonomous utilities of national interest, national companies and corporations, banks and commercial companies in which the state is the majority shareholder, public institutions with attributions in the privatization process and of the central financial-banking units; the persons provided in art. 293 and 294 of the Criminal Code.

The criminal investigation in the cases regarding the above-mentioned crimes committed by the active military is carried out by military prosecutors from the National Anticorruption Directorate, regardless of the military rank of the investigated persons.

If the National Anticorruption Directorate is not competent to prosecute for the corruption facts under investigation, the investigations shall be carried out by the Prosecutor’s Offices attached to the Courts, as common law investigative bodies, or by the higher prosecutor's offices if personal competence requires it.

In this regard, for example, if corruption offenses are committed by Members of Parliament, the Prosecutor's Office attached to the High Court of Cassation and Justice will have the competence to investigate them and to prosecute.

The power to prosecute in the case of corruption offenses belongs to the prosecutor, who may delegate judicial police workers to perform various procedural acts, such as hearing witnesses, conducting a home search, transcribing recorded conversations etc.

Special methods of surveillance or investigation in the case of corruption offenses

The legislator provided in the current Romanian Code of Criminal Procedure in addition to the classic evidentiary procedures, special methods of surveillance or investigation (art. 138), respectively: interception of communications or any type of remote communication, access to a computer system, video surveillance, audio or photography, localizing or tracking by technical means, obtaining data on a person's financial transactions, seizing, handing over or searching postal items, using undercover investigators and collaborators, authorized participation in certain activities, supervised delivery and obtaining data generated or processed by providers of public electronic communications networks or providers of electronic communications services intended for the public, other than the content of communications, retained by them under the special law on the retention of data generated or processed by providers of electronic communications networks public electronic communications networks and providers of electronic communications services intended for the public.

All these special methods of surveillance or investigation are applicable in the case of the investigation of corruption offenses, given that the legislator has classified this type of crime as one of the most serious. In the case of the latter offenses, the use of special methods of surveillance and investigation, which involve investigative activities that are not known to persons under criminal investigation, is very useful given that they are often educated, trained, the so-called "white collars", which will try to protect themselves in the most sophisticated ways from the risk of discovery by the judicial authorities. To this end, they will commit crimes of corruption sometimes through intermediaries, using coded language, will try to give a legal appearance to illicit financial transactions, will have incriminating discussions only with people they trust, after putting aside possible recording devices (tablets, telephones, etc.).

The use of undercover investigators and collaborators, as a special method of investigation, is regulated in Articles 148-150 of the Code of Criminal Procedure, which provide the legal conditions for using this technique, its duration, and the limits within which undercover investigators and collaborators can carry out activities.

The measure is ordered by the prosecutor, ex officio or at the request of the criminal investigation body, by ordinance, which must include an indication of the activities that the undercover investigator is authorized to carry out, the period for which the measure was authorized, and the identity assigned to the undercover investigator.

It has been pointed out in the doctrine (Petre and Trif 2016, 88) that "the emergence of the legal framework regulating the activity of undercover investigators was unanimously determined by the need to fight atypical forms of crime, organized and "hermetic", so that the activity of proving criminal acts by normal methods becomes particularly difficult, if not impossible."

The objectives of using the undercover investigator or the collaborator are to obtain data and information about the criminal activity, to obtain evidence that will be used in the criminal process. In practice, the undercover investigator or collaborator may carry out activities to establish whether the crime of which a person or an organized criminal group is suspected has been committed, is in progress or in the preparatory phase, identification of members of the group of offenders, identification of some accomplices, the identification of witnesses, the identification of the places where the goods from the crimes are hidden, the identification of the places where the victims of the crimes are, the specification of propitious moments for carrying out searches or arrests, etc.

The second condition that must be met is that the measure is proportionate to the restriction of fundamental rights and freedoms. This condition is provided by art. 148 par. 1 lit. b) of the Code of Criminal Procedure and must be analyzed by the prosecutor in the light of the criteria provided by the text of the law: the particularities of the case, the importance of the information or evidence to be obtained or the seriousness of the crime. It is thus necessary for the prosecutor to analyse in each case whether there is sufficient justification for ordering this special method of investigation, even in the conditions of investigating a crime of those limited by law.

The prosecutor will have to consider whether in a given case the information that an undercover investigator or collaborator is needed due to the particularities of the case, such as the difficulty of documenting the criminal activity, due to the importance of the information or evidence they could obtain (their probative value or the concrete possibility of the judicial bodies to capitalize the respective information for obtaining evidence) or taking into account the concrete gravity of the crime, situation in which any legal evidentiary procedure performed is justified.

Activities that may be performed by the undercover investigator or collaborator

In general, there are three types of operations that can be carried out by undercover investigators and collaborators:

The first category of covert operations consists of cases that systematically involve the collection of information, the second category of operations usually focuses on the trading of drugs, weapons or other such illegal goods or services.

The undercover agent buys such goods from a suspect in order to obtain direct evidence that the suspect is indeed involved in these offenses, and in the third category of transactions, undercover transactions are part of a wider activity, which does not concern individual suspects, but criminal groups engaged in a larger-scale criminal activity, such as drug or human trafficking, the formation of an organized criminal group.

In addition to collecting direct evidence, the purpose of these operations is to obtain a perspective on the composition of the criminal group, how they operate, on the use of money resulting from criminal activity.

Undercover investigators may not "play" the role of buyer, but only carry out infiltration activities in the organized criminal group and get involved in its activity for the systematic collection of information.

The doctrine stated that, "infiltration is the action of the police officer to maintain, under a false identity, lasting relationships with one or more persons in connection with whom there are solid reasons to believe that they are committing crimes within a criminal organization." (Franchimont and Masset 2006, 331).

The different types of operations that undercover investigators or collaborators vary greatly in terms of their duration, intensity and the kind of contact between them and the subject.

Some covert operations last only one day and consist of no more than a brief business contact with a suspect. Some contacts may only be business-related, such as in bribery investigations, in which the undercover investigator or co-worker may claim to remit the bribe in order for the official to perform his duties incorrectly (for example, remittance to the police officer so as not to be penalized for traffic offences).

In cases where an undercover agent befriends a suspect in order to obtain information about his involvement in a serious crime, he must sometimes establish a rather intense personal and emotional connection with the suspect. If the undercover agent tries to infiltrate a group of suspects who trade in illegal goods, his task is most often to obtain a clear picture of the composition of the criminal group and its activity (such as the source of supply of the goods), how they are transported, the means of transport used, the transactions completed or to be completed concerning the illegal goods), but must first obtain a position within the group in which to be perceived as trustworthy.

When the special research method is combined with other methods, such as technical supervision, the undercover investigator or collaborator may record the activities carried out and also place the audio / video recording equipment in the environment (eg in homes, offices etc.), key-loggers on computers, laptops, GPS tracking devices on various objects (means of transport, parcels, etc.), to take photos, to access computer systems, etc.

Undercover investigators infiltrated in illegal activities investigated by the supervised delivery method may be allowed to contact members of the criminal group, coordinate and monitor the work of other officials (customs staff, courier services, etc.), to buy drugs with

collaborators from drug traffickers, to transport drugs as carriers (drivers) to identify the final recipients of drugs, etc. There are also supervised delivery operations in which undercover agents of a state will be allowed to engage in activities for the collection of information (such as the commission of corruption offenses by public servants who know and tolerate criminal activities in exchange for receiving benefits), procuring drugs or transporting them to another state, accompanying or monitoring the supervised delivery, etc. (Transnational supervised deliveries in the context of drug trafficking investigation, Manual, 174).

The course of covert operations can be very unpredictable given the lack of predictability of the behavior of suspects. It may happen that the undercover investigator or collaborator, in the course of his activities, is in a situation where he is forced by circumstances to commit other act incriminated by criminal law than those for which he was authorized by the prosecutor, otherwise there is a risk that the whole operation will be uncovered and / or the safety of the undercover agent will be jeopardized (for example, by the suspect finding out his real identity). In these situations, the Code of Criminal Procedure does not provide for the possibility of committing such offenses without the risk of incurring criminal liability of the undercover investigator or collaborator, if there are none of the justifying or imputability cases regulated in the Criminal Code.

De lege ferenda, it is required that the legislator provide that, in undercover operations, in situations where the undercover investigator or collaborator was forced to commit a crime other than that for which he was authorized by the prosecutor's order, he should not or be held criminally liable if the act was committed in order not to expose the criminal investigation carried out or not to endanger its safety, if there is a relationship of proportionality between the criminal act committed and the purpose pursued. In this regard, the undercover investigator or collaborator should take into account the importance of the evidentiary procedure carried out, the seriousness of the investigated criminal activity, but also the seriousness of the act they should commit without having the practical possibility to notify the prosecution bodies in advance.

In all cases, it is necessary for the undercover investigator or collaborator to be sufficiently well trained, to be provided with all the data necessary to ensure that the operation is not exposed and that its safety is not jeopardized. Depending on the complexity of the operation, a practical planning of the activities carried out at the beginning and, if necessary, during the operation will be necessary so as not to violate the principles of criminal proceedings, including the loyalty of the administration of evidence.

The judicial bodies may use or make available to the undercover investigator any documents or objects necessary for the performance of the authorized activity. The activity of the person who makes available or uses the documents or objects does not constitute a crime (like giving bribery or buying influence). Thus, if the undercover investigator or collaborator also carries out technical suprveillance activities, the equipment he uses must have the exact date and time set to rigorously reflect the time placement of the recorded activities.

In the event of the perpetrator being caught red-handed, the judicial authorities must ensure that the undercover investigator or collaborator is protected from possible acts of revenge by the perpetrators. The undercover investigator collects and makes available to the prosecutor who conducts or supervises the criminal investigation all the data and information obtained on the basis of the issued order, drawing up a report on all the activities carried out.

Undercover investigators may be heard as witnesses in criminal proceedings under the same conditions as threatened witnesses, respectively without revealing their identity and without being present in the courtroom. Although art. 148 par. 10 of the Romanian Code of Criminal Procedure stipulates that the collaborator, like the undercover investigator, should write a report on all activities carried out, in practice he is only heard by the judicial bodies, without being necessary to write any report by the collaborator.

According to art. 103 par. 3 of the Romanian Code of Criminal Procedure, the decision of the court cannot be based, to a decisive extent, on the testimony of the undercover investigator or on the statements of the protected witnesses. 5. Use of undercover investigators and collaborators in compliance with the principle of loyalty of evidence administration

The activity carried out by undercover investigators and collaborators under the coordination of the prosecutor, as a probative procedure, is subject to the same fundamental principles of the criminal process.

They must therefore refrain from any act which is likely to infringe criminal procedural rules, to use tricks or strategies in order to obtain, in bad faith, evidence or which have the effect of provoking the commission of an offense. In essence, both undercover investigators and collaborators must respect the principles of legality and loyalty of evidence.

A discussion frequently had in practice and reported in the doctrine is that of the provocation to commit crimes by state agents, making the distinction between "provocation to commit a crime" and "provocation to prove criminal activity." (See Volonciu, Uzlău coord. 2014, 282; Udroiu, coord. 2017, 413-414).

The work of undercover investigators and collaborators must be carried out in such a way as not to lead to the commission of criminal offenses, while it is illegal to determine a person to commit or continue to commit a crime in order to obtain evidence. It was pointed out that the reason for this prohibition is that the state cannot, through its agents, including a collaborator, exceed its obligation to apply the law by instigating a person to commit a crime that he would not otherwise have committed. (Șuian 2016, 14).

The provocation to commit a crime is distinct from the provocation to the proof of a previously committed crime, the latter not being, in itself, likely to lead to the violation of the principle of loyalty, because it only proves the commission of a crime and not the determination to commit or continue its.

The literature has also expressed the opinion that sometimes the provocation to the proof can fall under the influence of unfair strategies. It was pointed out that "the existence of a hypothesis of disloyalty may be retained if, in the evidentiary procedure of the technical surveillance, the witness, acting under the coordination of the criminal investigation body, obviously determines his interlocutor to report certain facts that he has not wanted to expose them or he didn't remember them, in which case there was no loyal provoking to the proof; the action of the witness thus exceeds the scope of a passive investigation in the matter of obtaining evidence, being able to be assimilated to the case of disloyalty provided by art. 101 par. 2 of the Code of Criminal Procedure, if it is held that it has the nature of a maneuver that influenced the ability of the interlocutor to report consciously and voluntarily the facts that are the subject of evidence." (Udroiu 2020, 435).

The provocation was essentially defined in the doctrine (Udroiu 2020, 438-439) as representing the unfair action performed for the purpose of obtaining evidence, consisting in knowingly determining a person to commit a crime (the provocateur was practically, from the point of view of substantive law, in the position of the instigator who determines a person to take a criminal resolution) or to continue committing a crime. (…) The reason for not prohibiting the commission of an offense is that the State, through its agents, may not exceed its powers to enforce the law by instigating a person to commit an offense which he would not otherwise have committed, in order to then initiate against this person the mechanisms of the criminal process, in order to be held accountable; This creates limits on the pursuit of criminal prosecution in a proactive investigation, in order to protect citizens from provocations posed by state agents, as well as to protect the integrity of the criminal justice system, which would otherwise be compromised if the courts would take into account the evidence resulting from these obviously unacceptable practices of law enforcement officials. At the same time, the credibility of the criminal justice system is ensured and the principle of finding out the truth is guaranteed.

It has emerged from the case law of the European Court of Human Rights that in order to verify the existence of the challenge, the courts have to do two tests:

- the substantive test in which it is ascertained whether the authorities have engaged in essentially passive conduct in the commission or continuation of the commission of the offense by the accused. This test relates to the reasons that were the basis for initiating the investigation, namely whether there was at least a reasonable, objective suspicion that the accused was involved

in criminal activities or had a predisposition to do so, the conduct of prosecutors during the investigation for to check whether they influenced the accused person to commit the crime or offered him a "regular opportunity" to commit the crime, the criminal resolution belonging to him. The substantial test will also take into account the legislative standard, and it is necessary to have clear and predictable legislation on the authorization of investigative measures, including for the purpose of their supervision.

- the procedural test of provocation, represents the second stage of verifying the observance of the principle of loyalty, the way in which the national courts analyzed the defenses of the accused by which the existence of the provocation was invoked is examined.

If the substantive test shows that the prosecuting authorities behaved purely passively and did not provoke the accused person to commit the crime, the European Court of Human Rights will no longer carry out the procedural test as it has already been concluded that there was no provocation by the public agents to commit the offence.

In the judgment of February 14, 2017 in the case Pătrașcu against Romania (application no. 7600/09), the European Court of Human Rights ruled that art. 6 paragraph 1 of the Convention was violated. In fact, in February 2007, a police officer approached the applicant in a nightclub to check on information that the latter was dealing with drug trafficking. The undercover police officer later wrote a report describing that the applicant had told him that he could buy him drugs and that they would be heard on the phone. After the start of the criminal investigation and the authorization of some surveillance measures, the applicant called the police officer to ask him if he was interested in buying ecstasy. The police officer in turn called the applicant several times during April and May 2007 to agree on the details of the transaction. On July 19, 2007, the two met, on which occasion a flagrant was committed. The applicant was sentenced to prison for drug trafficking. The European Court of Human Rights has reiterated that the provocation of committing a crime occurs when state agents do not engage in passive behavior, but incite a person who would not otherwise have committed it to commit a crime. He also points out that the admission by the courts of evidence obtained as a result of provocation by the police can lead to an unfair trial. In this sense, the reasons that were the basis of the decision to initiate the special measure, the behavior of the state agents, as well as the way of examining the case in court are important.

As regards the manner in which the national courts examined the case, the Court observed that, in that case, since the applicant had alleged that he had been challenged to commit the offense, the national courts were required to take the necessary steps to find out the truth. The burden of proving that the challenge did not take place is on the prosecuting authorities. Consequently, the courts should have examined, by assessing the information in the case file and, if necessary, by examining the material relevant to the operation, the reasons for the authorities' suspicion that the applicant might be involved in drug trafficking. The Court noted in this regard that the national courts failed to verify the statement included in the initial report of 1 March 2007 that the police were in possession of information regarding the applicant's involvement in drug trafficking. This would have helped to clarify the reasons why the operation was initiated, in particular whether the authorities acted on the basis of information received from a person and therefore joined a continuing offense or the information was collected directly by the to the police, the latter leading to the risk of extending their role to that of provocateurs. The undercover policeman was heard in court, but the statement did not clarify this issue.

Conclusions

The institution of the undercover investigator and the collaborator, as a special method of criminal investigation, has shown that it is particularly useful in proving certain crimes, such as corruption offenses, in which the subjects involved have a high degree of intelligence and commit crimes within a fairly cautious manner so as to avoid the risk of them being discovered. Under these

conditions, in order to prove the crime, it is often necessary to "provoke" certain discussions regarding the criminal agreements between the investigated subject and the undercover investigator or collaborator, in which the former has a certain degree of trust to conduct those discussions.

In addition, the use of the undercover investigator and the collaborator, in addition to other special methods of surveillance and investigation provided for in the Code of Criminal Procedure, are often essential in the investigation of drug trafficking offenses or other illicit activities carried out by organized criminal groups, and also corruption offences related to these crimes, given the secrecy of their activity and the difficulty of infiltrating foreigners into the criminal environment.

In order for the undercover investigator or collaborator to carry out the activities for which he has been authorized in an appropriate manner, both to ensure an increased chance of obtaining legal and fair evidence in the criminal case and to ensure his safety, it is necessary to benefit all legal and practical facilities in this regard, from the protection of his safety or that of others close to him in case of need, to adequate professional training before the operations carried out, as well as adequate equipment with the technical equipment or other objects necessary to carry out the activity.

The prosecutor supervising or conducting the criminal investigation must ensure that, in relation to all the data of the criminal case, the activities of the undercover investigator or collaborator, as outlined in the ordinance ordering the use of this special method of investigation, do not violate fundamental principles of the criminal trial and, at the same time, the principle of the loyalty of the administration of evidence. To this end, their activity should be monitored throughout its operation in order to stop in time any slippage that may lead to the risk of losing important evidence.

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Examining the Teachers' Views Regarding the Usefulness of Dramatization in Primary Education Based on Non-Parametric Statistical Tests

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ABSTRACT: In this article, we examine the differences that arise in teachers' views regarding the utilization of dramatization in the educational process, using reliable inferential statistical methods. Our sample consisted of 60 (sixty) primary school teachers on the Greek island of Paros, of which 15 (fifteen) are men and 45 (forty-five) are women. The subjects completed a well-structured questionnaire, during the period October 2017-May 2018, allowing us to draw useful conclusions on both their knowledge and the usefulness of dramatization inside a school environment. Furthermore, we explore their general tendencies according to the importance and necessity of dramatization within the educational procedure, while the analysis focuses on their differentiation of views based on their gender and years of work experience, using the non-parametric statistical tests of Mann-Whitney and Kruskal-Wallis. These tests are ideal for the comparison of data resulting from questionnaires employing the Likert scale, due to the avoidance of mean value's usage during their application. Finally, these well established and widely used statistical tools, enhance the trustworthiness of the produced results and conclusions, providing a representative insight of the general teachers' opinions about the inclusion of dramatization in primary education.

KEYWORDS: Dramatization, Pedagogy, Non-Parametric statistical tests, Mann-Whitney test, Kruskal-Wallis test

Introduction

Dramatization is a theatrical technique that can aid pupils, as well as adults, in better understanding certain concepts, both within and outside the strict educational environment. 'Dramatopoesis', the Greek word for dramatization, is a compound word, formed by the words *drama* and *poetry* ('poesis' in Greek). The latter does not refer to its literary significance (poetry: the art of poems) but to its basic etymological meaning, namely: to make, to do, to construct (Gargalianos 2020: 49). There is a lot of research that supports the integration of dramatization in the educational process by emphasizing its beneficial properties.

In this study, through the usage of a well-constructed questionnaire, we explored the tendencies of primary school teachers of Paros Island, regarding the inclusion of dramatization in education together with its possible beneficial effects for the students of a primary school. In addition, special emphasis was placed on the comparison of their opinions according to their gender and years of experience, using the Mann-Whitney and Kruskal-Wallis non-parametric tests, which seem as ideal for questionnaires based on Likert scale, due to their construction. There are several studies on the influence of dramatization in the educational process using the aforementioned tests; Şengün & İskenderoğlu (2010) presented the analyses of 17 articles on the use of dramatization in the teaching of Mathematics; Kayılı & Erdal (2021) compared the performance of 40 pupils through the Mann-Whitney test, in order to decide whether dramatization enhances the understanding of preschool children, while Momeni et al. (2017) investigate the improvements in the creativity of 4-6 year-olds using a sample of 52 children, caused by the inclusion of dramatization. Also, Kilic &

Namdar (2021) assessed whether dramatization contributes to the acquisition of values in 5-year-old children. Finally, Yaşar & Aral (2020) examined whether dramatization contributes to the development of creative thinking of children aged 61-72 months, while Pesen & Üzüm (2017) explored the self-efficacy levels of English teachers who used similar teaching techniques. Another widely used statistical tool that is adequate in the exploration of correlation between the answers of respondents in various questions, is the Spearman index that also belongs to the category of non-parametric statistical tests (Papageorgiou & Tsaklidis 2021; Murray 2013) rendering it ideal for the particularities of Likert scale.

Questionnaire reliability

In this section, emphasis is placed on assessing the reliability of the questionnaire measurement scale, through Cronbach's alpha coefficient, which returns values ranging from 0 to 1 (Adeniran 2019; Tavakol & Dennick 2011; Taber 2017). The higher the value, the more reliable is the scale utilized in the questionnaire items. Values that tend to 1 are almost impossible in practice; therefore, researchers consider values greater than 0.5 as relatively acceptable, and those greater than 0.7 as extremely satisfactory. In this case, the coefficient calculated through SPSS (version 23.0) is 0.861; this constitutes a particularly satisfactory and trustworthy value, which confirms the strong reliability of the used scale.

Normality of data distribution

The basic condition of many statistical tests is the assumption that the sample's observations follow the normal (Gaussian) distribution (Wong & Wong 2016). The dissatisfaction of this hypothesis leads to the utilization of non-parametric statistical tests such as those of Mann–Whitney and Kruskal-Wallis, which are employed during our analysis. In addition, these two statistical tests are more appropriate in cases of ordinal measurement data scale -such as Likert data scale- as their function is based on the order rather the mean of the observations. The statistical methodologies and tools that invoke the usage of the sample mean are more adequate in analysing interval or ratio scale data. These two characteristic non-parametric tests, the Mann–Whitney (Jingdong & Priebe 1998, Wallace 2004) and Kruskal-Wallis tests (Dalgaard 2002, Brown & Hettmansperger 2002) could be used to examine the existence of statistically significant differentiations between the views of two or among the views of three or more groups of questionnaire respondents correspondingly (Winter & Dodou 2012, Ostertagová & Ostertag 2014).

The respective parametric tests are the t-test and Anova, which are highly popular having similar intuitive interpretation as Mann–Whitney and Kruskal-Wallis tests. During the present analysis, we utilize the Kolmogorov–Smirnov and Shapiro–Wilk statistical tests to assess the normality of data distribution; both tests produce similar results and conclusions for all questionnaire items. The two tests produce a p-value of $0.00 < 0.05$ for all 24 questions-affirmations, which is expected due to the nature of Likert scale; thus, the normality hypothesis is rejected.

Comparison of views based on sex

In this paragraph, we examine the difference in views according to gender, via the Mann-Whitney test. The variable "gender" is coded as "Male" = 0 and "Female" = 1; the answers to the questions of the five-point Likert scale are coded with values between 1 - 5, where higher values represent more positive answers to the statements-affirmations.

Tables 1a up to 1d illustrate the statistical results produced by the non-parametric test of Mann-Whitney. More specifically, the 3rd column presents the number of respondents in

each subgroup, the 4th and 5th show the average value and standard deviation for each group, correspondingly, and the 6th column displays the statistical significance of the comparison between the 2 categories (p-value).

Table 1a. Comparison of teachers' views based on gender through the Mann–Whitney test

Teachers' Statements	Gender	N	Mean Value	Standard Deviation	p-value
1. Dramatization is an effective teaching method	Male	15	4.40	0.632	0.431
	Female	45	4.28	0.645	
2. Dramatization is widely used in the teaching of general classes	Male	15	3.07	0.884	0.836
	Female	45	3.02	0.917	
3. Dramatization is appropriate for teaching foreign-language pupils	Male	15	4.27	0.594	0.636
	Female	45	4.33	0.674	
4. Teachers are trained to use dramatization as a teaching method	Male	15	2.73	0.961	0.636
	Female	45	2.53	0.726	
5. Dramatization presupposes good use of the dominant language	Male	15	3.60	1.183	0.033
	Female	45	2.96	0.952	

Table 1b.

Teachers' Statements	Gender	N	Mean Value	Standard Deviation	p-value
6. I have used dramatization in the teaching of the Greek language	Male	15	2.87	1.356	0.637
	Female	45	3.02	0.941	
7. I use dramatization in the teaching of the Greek language	Male	15	2.67	1.397	0.363
	Female	45	2.96	1.021	
8. I use dramatization in teaching courses other than the Greek language	Male	15	3.00	1.414	0.537
	Female	45	2.87	1.179	
9. I create dramatization activities in addition to the content of the textbook	Male	15	2.93	1.223	0.837
	Female	45	2.82	1.007	
10. I use dramatization when it is suggested by the Teacher's Handbook	Male	15	2.60	0.986	0.132
	Female	45	3.11	1.153	
11. I would choose dramatization to make teaching more effective	Male	15	3.47	1.060	0.362
	Female	45	3.78	0.735	
12. I would choose dramatization for more enjoyable teaching and easier learning	Male	15	3.93	1.163	0.970
	Female	45	4.09	0.583	

Table 1c.

Pupils, through dramatization…	Gender	N	Mean Value	Standard Deviation	p-value
13. Expand life and learning experiences	Male	15	4.07	0.704	0.698
	Female	45	3.96	0.767	
14. Gather information about the "Other"	Male	15	3.87	0.834	0.630
	Female	45	3.93	0.720	
15. Develop their language skills	Male	15	4.00	0.535	0.912
	Female	45	4.00	0.674	
16. Release emotional charge	Male	15	4.20	0.676	0.123
	Female	45	4.44	0.813	
17. Develop democratic relationships within the classroom and the school environment	Male	15	3.93	0.704	0.704
	Female	45	4.00	0.769	
18. Feel creative	Male	15	4.13	0.743	0.040
	Female	45	4.56	0.586	

Table 1d.

Pupils, through dramatization…	Gender	N	Mean Value	Standard Deviation	p-value
19. Combine relaxation and creativity	Male	15	4.13	0.743	0.108
	Female	45	4.47	0.661	
20. Develop motor skills	Male	15	4.20	0.561	0.896
	Female	45	4.18	0.777	
21. Discover and develop their senses	Male	15	4.13	0.640	0.613
	Female	45	4.22	0.704	
22. Stimulate their imagination	Male	15	4.60	0.507	0.904
	Female	45	4.58	0.621	
23. Set aside inhibitions and phobias	Male	15	4.13	0.834	0.772
	Female	45	4.04	0.796	
24. Socialise	Male	15	4.33	0.816	0.703
	Female	45	4.44	0.693	

Observing the results of the above tables, we pay attention to the statements "Dramatization presupposes good use of the dominant language" and "Feel creative", with ($U = 217.5$, $p = 0.033 < 0.05$) and ($U = 230.5$, $p = 0.040 < 0.05$), correspondingly. In the case of the question "Dramatization presupposes good use of the dominant language", the opinions of men (mean value = 3.6) seem to be more positive compared to those of women, with a mean value of 2.96. The value of 3.6 indicates that men's views concentrate on the option "I agree", while the women's views rather converge on the moderate answer "Neither agree nor disagree".

The female teachers who participated in this research seem to be of the option that dramatization contributes beneficially to the stimulation of children's creativity more strongly than men, as their answers' mean value to the corresponding question is 4.56, compared to the 4.13, which is the mean of male teachers' responses (Golia 2021: 78). No statistically significant differentiations are displayed in the tendencies of men and women in the remaining questions, as illustrated by the corresponding p-values, which are greater than the significance level of 0.05.

Comparison of views based on years of experience

At this point, with the help of the Kruskal–Wallis test, the difference in the views of the teachers who participated in the research according to their years of experience is being examined. The variable "years of experience" was coded as "1 - 6 = 1", "7 - 12 = 2", "13 - 18 = 3" and "18+ = 4". In the original questionnaire there are five groups for this variable, however due to the small number of participants, in the subgroups "18 – 23" and "23+" these two groups are merged into one "18+", which is coded with 4.

In Tables 2a up to 2d, we observe the results of the Kruskal-Wallis test. More specifically, in the 3rd column we have the number of respondents of each group, in the 4th the average value of the four groups, in the 5th the standard deviation and in the 6th the statistical significance of the test (p–value).

Table 2a. Comparison of teachers' views based on years of experience, via the Kruskal-Wallis test

Teachers' Statements	Years of Experience	N	Mean Value	Standard Deviation	p-value
1. Dramatization is an effective teaching method	1 - 6	14	4.29	0.611	0.115
	7 - 12	26	4.08	0.688	
	13 - 18	12	4.50	0.522	
	18+	8	4.63	0.518	
2. Dramatization is widely used in the teaching of general classes	1 - 6	14	2.57	0.756	0.019
	7 - 12	26	3.35	0.892	
	13 - 18	12	3.17	0.718	
	18+	8	2.63	1.061	
3. Dramatization is appropriate for teaching foreign-language pupils	1 - 6	14	4.43	0.756	0.470
	7 - 12	26	4.19	0.694	
	13 - 18	12	4.50	0.522	
	18+	8	4.25	0.463	
4. Teachers are trained to use dramatization as a teaching method	1 - 6	14	2.71	0.914	0.895
	7 - 12	26	2.54	0.582	
	13 - 18	12	2.58	0.793	
	18+	8	2.50	1.195	
5. Dramatization presupposes good use of the dominant language	1 - 6	14	2.86	1.027	0.354
	7 - 12	26	3.27	0.962	
	13 - 18	12	2.83	0.937	
	18+	8	3.50	1.414	

Table 2b.

Teachers' Statements	Years of Experience	N	Mean Value	Standard Deviation	p-value
6. I have used dramatization in the teaching of the Greek language	1 - 6	14	2.50	1.160	0.100
	7 - 12	26	3.19	0.981	
	13 - 18	12	2.83	1.115	
	18+	8	3.38	0.744	

7. I use dramatization in the teaching of the Greek language	1 - 6	14	2.43	1.222	0.098
	7 - 12	26	3.19	1.059	
	13 - 18	12	2.50	1.087	
	18+	8	3.25	0.886	
8. I use dramatization in teaching courses other than the Greek language	1 - 6	14	2.93	1.072	0.410
	7 - 12	26	2.69	1.192	
	13 - 18	12	2.92	1.379	
	18+	8	3.50	1.414	
9. I create dramatization activities in addition to the content of the textbook	1 - 6	14	2.86	0.949	0.360
	7 - 12	26	2.65	0.977	
	13 - 18	12	2.83	1.115	
	18+	8	3.50	1.309	
10. I use dramatization when it is suggested by the Teacher's Handbook	1 - 6	14	2.57	1.222	0.257
	7 - 12	26	3.12	1.143	
	13 - 18	12	2.83	0.937	
	18+	8	3.50	1.069	
11. I would choose dramatization to make teaching more effective	1 - 6	14	3.71	0.994	0.564
	7 - 12	26	3.62	0.752	
	13 - 18	12	3.67	0.985	
	18+	8	4.00	0.535	
12. I would choose dramatization for more enjoyable teaching and easier learning	1 - 6	14	3.93	1.072	0.153
	7 - 12	26	3.92	0.796	
	13 - 18	12	4.08	0.900	
	18+	8	4.63	0.518	

Table 2c.

Pupils, through dramatization…	Years of Experience	N	Mean Value	Standard Deviation	p-value
13. Expand life and learning experiences	1 - 6	14	4.36	0.497	0.026
	7 - 12	26	3.65	0.745	
	13 - 18	12	4.17	0.718	
	18+	8	4.13	0.835	
14. Gather information about the “Other”	1 - 6	14	4.36	0.497	0.043
	7 - 12	26	3.65	0.797	
	13 - 18	12	3.92	0.669	
	18+	8	4.00	0.756	
15. Develop their language skills	1 - 6	14	4.29	0.611	0.144
	7 - 12	26	3.81	0.634	
	13 - 18	12	4.00	0.426	
	18+	8	4.13	0.835	
16. Release emotional charge	1 - 6	14	4.71	0.469	0.231
	7 - 12	26	4.15	0.925	

	13 - 18	12	4.50	0.674	
	18+	8	4.38	0.744	
17. Develop democratic relationships within the classroom and the school environment	1 - 6	14	4.21	0.802	0.423
	7 - 12	26	3.81	0.749	
	13 - 18	12	4.08	0.793	
	18+	8	4.00	0.535	
18. Feel creative	1 - 6	14	4.64	0.497	0.629
	7 - 12	26	4.38	0.637	
	13 - 18	12	4.33	0.778	
	18+	8	4.50	0.756	

Table 2d.

Pupils, through dramatization…	Years of Experience	N	Mean Value	Standard Deviation	p-value
19. Combine relaxation and creativity	1 - 6	14	4.50	0.519	0.947
	7 - 12	26	4.38	0.697	
	13 - 18	12	4.25	0.866	
	18+	8	4.38	0.744	
20. Develop motor skills	1 - 6	14	3.93	0.829	0.217
	7 - 12	26	4.12	0.711	
	13 - 18	12	4.50	0.522	
	18+	8	4.38	0.744	
21. Discover and develop their senses	1 - 6	14	4.00	0.679	0.303
	7 - 12	26	4.15	0.675	
	13 - 18	12	4.50	0.522	
	18+	8	4.25	0.886	
22. Stimulate their imagination	1 - 6	14	4.04	0.497	0.678
	7 - 12	26	4.46	0.706	
	13 - 18	12	4.75	0.452	
	18+	8	4.63	0.518	
23. Set aside inhibitions and phobias	1 - 6	14	4.07	0.917	0.351
	7 - 12	26	4.00	0.693	
	13 - 18	12	3.92	0.900	
	18+	8	4.50	0.756	
24. Socialise	1 - 6	14	4.57	0.514	0.678
	7 - 12	26	4.27	0.827	
	13 - 18	12	4.42	0.793	
	18+	8	4.63	0.518	

There is a statistically significant difference in 3 out of the 24 statements listed in the questionnaire. A significant difference appears in statement “Dramatization is widely used in the teaching of general classes” with $\eta = 10.005$ and p - value = $0.019 < 0.05$. This result is

due to the difference in the views of teachers with “7 – 12” and “13 – 18” years of experience in relation to the opinions of the other two groups. More specifically, the mean values 3.35 of group “7 – 12” and 3.17 of group “13 – 18”, indicate a more moderate attitude regarding whether dramatization is used in general education classes, while teachers with “1 – 6” and “18+” years of experience are found to be between the “Disagree” and the moderate choice, with averages of 2.57 and 2.63 respectively.

Regarding the statement “They expand the life and learning experiences”, there is a statistically significant difference with $\eta = 9.260$ and p - value = $0.026 < 0.05$. Essentially, the group that differs significantly from the rest is that of “7 – 12” years of experience, which seems to be between the options “Neither Agree nor Disagree” and “Agree” with an average of 3.65. Finally, differentiated answers appear in the statement that elementary school students collect information about the “Other” through dramatization with $\eta = 8.156$ and p - value = $0.043 < 0.05$. The answers of teachers with “7 – 12” years of experience seem to have been divided between the options "Neither Agree nor Disagree" and “Agree” with an average of 3.65. At the same time, the other three groups converge on the “Agree” option with averages of 3.92 and 4 for the “13 – 18” and “18+” groups, while the teachers who belong to the “1-6” category have the highest average value of 4.36.

Conclusions

This study examines the views of 60 primary education teachers on the island of Paros, during the period October 2017-May 2018, regarding the inclusion and usefulness of dramatization in the educational process. According to their general tendencies, we found that, indeed, dramatization is a technique that significantly helps teachers in their lessons regardless of specialty. Next, we understood that the training of teachers in dramatization context is absent from the general educational process; as a result, the processes that take place in the classroom are not the desirable ones, nor do they raise the level of the general educational process.

As the normality hypothesis is rejected, but also due to the ordinal scale used in the questionnaire, we utilize the Mann-Whitney and Kruskal-Wallis non-parametric statistical tests. Based on the results presented in the above analysis, there are minor differentiations in the tendencies of teachers according to gender and years of experience. The two aforementioned non-parametric tests help us to ascertain differences of views on specific questions; subsequently, via descriptive statistics, we draw further conclusions regarding the opinions of each group of primary school teachers. Thus, we conclude, that the methodology that we utilize is ideal in order to manage and explore questionnaire results. The above methodology may be used similarly to conduct other studies in the field of Education and Social Sciences, and, more specifically, with regard to the inclusion of different types of theatre therein.

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Manifestation of Aggression in the Digital Environment

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ABSTRACT: Aggression as a mechanism for conserving the human species has been incorporated into the human survival system since ancient times. The surrounding nature, the relationship between the members of the species, the relationship between them and the existing wild animals, related to the primary needs of food and shelter of man led to the development of the feeling of danger, the feeling of threat and therefore the need for a physical response attack and defense against elements that can destabilize life. Although these beginnings seem primitive to us today, the human being gaining supremacy over the administration of the planet a few centuries ago, they are still inscribed in our genes, caused by the time difference between the period of technological progress in human history and the beginning of the species' existence the latter spanning a larger area of time compared to the modern era. However, in the short period of human civilization, more and more advanced mechanisms have been developed to inhibit its aggressive impulses, due to the new transformation into socio-intelligent, socially identifiable beings of the species. In the last period, the appearance and development of virtual social media has allowed man to hide his identity behind nicknames he has the opportunity to choose, thus giving permission to the aggressive mechanism inscribed in his genes to reappear. The paper aims to analyze the historical factors that determined the appearance and development of aggression, the transfer between legal norms for its inhibition and how it acts in the virtual space between members of the same digital community.

KEYWORDS: aggressivity, criminal law, psychology, criminal act, internet, Social Media, inhibition, human species, social values, society, bullying phenomenon

The emergence, development and orientation of aggression

The evolution of species on our planet has occurred gradually, at intermediate levels, by adapting existing systems for other purposes, thus giving beings the opportunity to gradually develop and occupy other habitats that, until their transformation, were hostile to them from the point of view of sustaining existence (Flonta 2010, 43).

The need for a biological transformation of all organisms over time, has its motivation in the threatening environmental factors that severely affected the way organisms live. Thus, whether their existence was endangered by environmental factors such as volcanic eruptions, climate change, temperature and others, or natural predators threatened the reproduction and development of entire species of living things, biological organisms were forced to develop systems of defense and even to modify certain internal organs for the purpose of survival (Flonta 2010, 56).

The birth of the human being is only one last known stage in the long series of biological changes that have occurred in the evolution of organisms on earth. Thus, originally, the human being represented only another biological level of evolution (Roșca 1997, 404).

In the first phase of human existence, when the need for food was provided by existing plant species, the factors that could endanger the support and development of its life were largely climate change and the structure of the planet, various natural disasters which also happened to predatory animals much larger than humans. Of these, the last factor is the only one that could be controlled, therefore, the human being has developed a mechanism for resistance to predator attack, called aggression (Marr 2012, 31).

This mechanism, on the one hand, has contributed to the diversification of the human diet, the number of predated predators being large enough to require a change in metabolism

from a strictly herbivorous to an alternative carnivore, and on the other hand, made members the species is a threat in itself, being much easier to direct aggression towards another human, compared to inflicting it on a large animal (Marr 2012, 40).

The chaotic struggles between people for survival come to an end many centuries later, with the emergence of the first settlements that allowed the development of belief and collaboration systems within the community. The emergence of the state as a tool for regulating social relations, thus puts an end to individual struggles within the settlements (Molcuț and Cernea 2006, 15).

Methods implemented to inhibit aggression

The emergence of the state as a body for regulating and controlling social relations between individuals, either in the form we know today or in the form of tribes, meant the end of the individual struggle for the existence of the human being and the beginning of collaboration between members of the same settlement improvement of the way of life (Păiușescu 2016, 15). In order to provide all the necessary premises for a lasting collaboration between citizens, the state needed mechanisms to control and inhibit the most primitive of instincts, including the innate aggression of man, so even in the organization of the first tribes there was a form primary of public law (Molcuț 2011, 10).

Of all the scientific branches of public law, the most important is Criminal Law, which defends social values for every individual in society. Thus, for the most part, the criminal law of any state contains norms for criminalizing certain human actions that can awaken their instinct for aggression (Mitrache and Mitrache 2019, 27).

The state, as a legal entity meant to promote and ensure rights and freedoms for its members, is assimilated as a citizen of the country it leads, so the need to develop a set of legal rules to ensure good understanding between citizens and the state has been imposed. from the beginning, giving rise to related branches of law such as Administrative Law, Constitutional Law, Fiscal Law and others, all with several elements that correspond directly to Criminal Law (Mața 2018, 22).

The necessary rules for the legal regulation of social relations in the absence of which it is possible to facilitate the performance of certain actions designed to require an aggressive response from the victim have been categorized into special structures of crimes against certain very well-defined elements of social relations (Gheorghe and Ivan 2019, 36).

The first of these categories has in its attention the individual as a member of the community of which he is part, being called crimes against the person. This category provides for all the physical actions that can be committed against it such as bodily injury, murder, deprivation of liberty and others (Cioclei 2020, 53).

The second category has in the center of its regulation the man as a socio-economic being and concerns his patrimony. The normative norms contained in this part ensure the possession of goods, in general, incinerating any action that could affect this fundamental right of the individual (Bogdan and Șerban 2020, 105).

Several categories concern the relationship of the citizen in society, on the one hand, in relation to the rights and freedoms of other individuals in the community, and on the other hand, in relation to the rights and freedoms of the state as a governing body. These are named according to the types of regulated relationships, such as: crimes against good public safety, crimes that can destabilize good social coexistence, crimes that endanger the administration of justice and the like (Boroi 2019, 135).

There are several categories of offenses relating to relations between states and which can be attributed to the activity of one or more citizens such as offenses that endanger national security and good relations between states (Coman, Jura, Necșulescu, Stolojescu and Purdă 2015, 81).

Manifestation of aggression in the digital environment

In today's modern society, the emergence and development of the Internet as an active tool in the process of globalization has brought, on the one hand, a number of significant advantages in the field of information trade, the possibility of exchanging experiences, culture and civilization, of international collaboration and other areas for which collaboration between individuals is particularly important, and on the other hand, through social communication networks, has created multiple disadvantages allowing the manifestation, in the digital environment, of the aggressive nature of man (Ioniță 2018, 28).

The fact that online socialization allows the manifestation of aggression, verbally, of the human being is based on a multitude of psychological, psycho-emotional and cognitive factors, to which is added the lack of coherent legislation in this area of coexistence (Mitarca 2016, 185). A first factor that determines, in the virtual environment, the manifestation of an attitude contrary to real social norms is that of the possibility of using pseudonyms instead of proper names. It is really much easier to criticize without logical arguments, to attack a person, to highlight their shortcomings or simply to create a false impression about that individual when you cannot be accurately identified (Udroiu, Trancă and Trancă 2014, 217).

This fact is particularly important because it creates the necessary premises for the spread and development of antisocial phenomena, the most serious of which is bullying, but can also generate certain messages aimed at increasing discrimination, resistance, promoting inequality of opportunity, sexual hatred, religious, cultural hatred and others (Zlate 2000, 113).

On the other hand, the protection of the identity of the person as a citizen of a State, identifiable on the basis of certain criteria imposed by the legislation in force, has been the concern of the legislative activity of the co-governing bodies of the communities since ancient times, this having a special importance in the state administration (Trușcă and Trușcă 2017, 187).

Nowadays, the global society has imposed, for the respect of the right to privacy of the individual, very well determined norms, both at national and international level, the legislative activity in this field being known as GDPR (Barbur 2020, 20). However, there are specifically regulated exceptions whereby state authorities, those charged with enforcing legal provisions, may benefit, on the basis of special acts, from protected personal information. These additional regulations have the role of offering the possibility of maintaining a certain degree of social order (Mateuț 2021, 217). However, the factors that allow the existence of the possibility of manifestation of aggression oriented in the virtual environment are numerous and have rather a psycho-social character, but not a strictly behavioral one (Butoi, Butoi, Butoi and Put 2019, 87).

First of all, what is missing for the self-control system developed over time to become operational is precisely the connectivity through relationships. In other words, the individual who attacks another person in the online environment does not direct his aggression against that person directly, but against a set of values and beliefs that he believes are wrong, represented by that individual who, like the first, is nothing but a digital pseudonym (Milovan and Dobre 2019, 167).

Some of these antisocial activities can be controlled even today by the already existing legislative mechanisms. Crimes such as slander, defamation, harassment of any kind, crimes whose motives are generated by racial, religious or other hatred have a direct counterpart in current criminal law, regardless of the state or legal system in which it applies (Ristea 2020, 210).

What largely prevents the application of the legislation thus constituted, is the special weight in the administration of the evidentiary evidence for the crimes committed in the online environment. This is also motivated by the ease with which, through a simple fault, a certain virtual account of a user can pass from his possession to the possession of another who can use it to commit an incriminated deed without having to ask the owner's consent of the account and without the latter having to be informed (Coman 2020, 218).

Conclusions

Aggression as a mechanism for defending and preserving existence is not unique to human beings. It arose with the need for biological organisms to ensure the necessary conditions for the development and defense of life.

Until it is categorized as a social being endowed with intelligence, man is still an animal with all the survival instincts transmitted genetically as a result of evolution, including innate aggression. If in the beginning aggression was aimed at dealing with predators that meant large animals that threatened human existence, once the danger was removed, ie by eliminating entire breeds of predators, the primitive instinct of man turned to members of the same species.

With the development of societies, the emergence of a primary form of state and communities of people forced to work together to support and develop the species, the state has had to find ways to inhibit primary instincts dangerous to society.

Thus, pubic law made its need felt from the beginning. Of all the branches of this fundamental right, the most important is Criminal Law, which ensures and offers the state the possibility to guarantee the rights and freedoms of citizens in relation to community social relations and in relations between citizens and the state.

Criminal law, be it national or international, regardless of the legal system in which it is applied, aims to regulate social relations in a form that does not allow the possibility of manifesting the primary instincts of self-preservation of man in the relationship between citizens.

Nowadays, the emergence, development and spread of the Internet as a mechanism of globalization, has led to a number of visible advantages in the progress of the human being, but has also contributed too many disadvantages in the way people relate.

First of all, offering the possibility to use a pseudonym, ie the method by which an individual can maintain his anonymity towards other individuals similar to him, created the premises for the manifestation of aggression in the online environment.

Second, although there are effective legislative mechanisms to control illicit activity in the virtual environment, the concern of states to protect the identity of their citizens by drafting sets of laws to protect personal data, known as GDPR, makes it difficult to administer evidence in order to identify the perpetrators.

To this factor is added the ease with which, through a simple fault, a certain user account can pass from one person to another who, in turn, can use it to commit certain slightly illegal acts.

The possibility of manifesting aggression in the online environment also comes from the lack of social connectivity between users, at a psycho-affective level. It is characterized by the fact that two people in the virtual environment are psychologically incapable of perceiving each other's feelings and feelings, which can only happen at great distances when there are other affective clues that reveal how the primitive instinct acts.

Lately, the danger of aggression in the online environment has been identified and many world organizations are trying to identify the best ways to inhibit this primitive instinct without endangering or interfering in any way on the rights and freedoms of citizens, thus laying the foundations of digital legislation.

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Humanness in the COVID-19 Era

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ABSTRACT: The COVID-19 pandemic has led to worldwide lockdowns and social distancing measures. Speculations about prehistoric human development, when cave-man and cave-women survived and advanced in seclusion serve as an analogy for today's lockdowns in order to derive inference about a potential future of humankind after the pandemic. Researchers at the University of Vienna study the group dynamics and socio-psychological impact of crises as a driver of human advancement. As these researchers outline, in the history of humankind, seclusion in caves held enormous potential for societal development, which may also apply today in regards to the COVID-19 pandemic. During periods when natural disasters made exterior living conditions dangerous, human hiding themselves in caves developed so-called "cave competencies." These key advancements grew when people had to seclude themselves from society – e.g., during natural disasters, volcanic eruptions, but also during pandemics, such as the great plague of the 14th century. Starting out in analyzing the currently-ongoing work on cave competencies, this article then embarks on highlighting potentially constructive effects of the COVID-19 crisis, following M. Davis Cross' crisis transition to a new Renaissance. The individual decision-making during crises is captured in its potential to extracting a particular common welfare enhancement in cooperative behavior. Altruism and reciprocity based on trust are outlined as important steps towards cooperation. An archetype of the renewed ethos is formed on the basis of a community of interest and is supported by the coordination of long-term cooperation and the particular interests of the participants in dialogue maintenance, as well as their fine attunement to empathic communication. Differing motivations, communication network frictions and free rider problems are discussed as potential obstacles of strengthening the social glue during a pandemic. Group psychology of collective coping strategies as well as the long-term coordination of intergenerational cooperation are outlined with particular attention to the digital world the pandemic has fortified.

KEYWORDS: Altruism, Archetype, Catharsis, Cave competences, Common welfare, Communication networks, Community of interest, Cooperation, Coordination of long-term cooperation, Coping strategies, Coronavirus, COVID-19, Crisis management, Dialogue, Digitalization, Empathic communication, Free rider problems, Group psychology, Humanness, Imagination, Lockdown, New Renaissance, Pandemic, Philosophy, Resilience, Social distancing, Social welfare, Transition economics, Trust

Philosophical foundations

There are different philosophical foundations to explaining the current COVID-19 pandemic mindset of individuals and societal implications. Iranian-born political philosopher Ramin Jahanbegloo writes in his book "The courage to exist – a philosophy of life and death in the age of coronavirus" that the coronavirus pandemic has challenged basic human values (Jahanbegloo 2020). The pandemic is what the ancient Greeks called *kairos*, a special moment that allows the *Zeitgeist* to change the spirit of the times. The essence of the coronavirus on a civilizational scale is to draw humanity's attention to global threats such as climate change. Today, philosophers such as Bruno Latour are proposing to build a "new normality" in which the fight against climate change will take center stage (Delanty 2020).

Israeli philosopher Yuval Harari (2020) argues that the pandemic should have given impetus to international scientific cooperation based on the free information exchange.

Another current philosophical direction associated with the coronavirus is existentialism. Common to existentialists are two categories: the first is that death gives meaning to life. The second consists in the "throwing" (*Geworfenheit*) of a person into the world. One of the main challenges is living an authentic life in everyday situations. In connection with existentialism, it is common to recall a philosopher who did not consider himself an existentialist yet became renown for being a key figure on existentialism – Albert Camus. In the philosophical novel "The Plague," Camus writes that in a world devoid of meaning, the plague becomes a moral opportunity to find oneself in the struggle for the common good. The plague is an evil incarnate, but it helps people rise above themselves. The presence of empathy becomes a sign of health in society enabling community formation (Peters 2020).

According to Delanty (2020), the philosophy of utilitarianism in relation to the coronavirus sees the desired result of obtaining herd immunity. The Kantian alternative to utilitarianism prioritizes human dignity, which outweighs the common good in importance. The Kantian argument contradicts the utilitarian position, namely the maxim that the end justifies the means. But the Kantian argument, taken to the absolute, means that it is necessary to use resources to save the hopeless sick at the expense of those who can be saved. The ethical duty of the state is to protect all lives, without distinguishing between the lives of different people in terms of value.

The third philosophical position in the controversy is called libertarianism. This line of thought puts human freedom at the forefront. According to libertarians, the measures that states are taking to combat the coronavirus violate the personal freedom of citizens (Delanty 2020). Achille Mbembe, a philosopher from Cameroon, explores how governments decide who lives and who dies, as well as how someone lives and someone dies (Mbembe & Bercito 2020). As Mbembe points out, the human body has become a threat to others, and there has been a "democratization of the power to kill." Isolation is the way to control this power. "People go back to '*chez-soi*' (French - home) – as if the worst thing that could happen would be to die outside home" (Mbembe& Bercito 2020).

Bulgarian philosopher Yulia Kristeva (2020) identifies three definitions of a globalized person – solitude experienced as loneliness, intolerance of restrictions and suppression of the thought of one's mortality. Such a person cheated on himself during the pandemic. As Giorgio Agamben (2020) writes in *Explained*, people have been able to sacrifice social relationships, jobs, religious and political beliefs in order not to get sick. The state of emergency, which was introduced temporarily, has become the norm. People are so accustomed to living in an incessant crisis that they do not notice how their life turns into biological existence. A society that operates in a permanent state of emergency cannot be free (Agamben 2020). Survival has become an absolute, as if we were living during a period of war, concludes the South Korean philosopher Byung-Chul Han (2020). Survival society is losing understanding of what a good life is (Byung-Chul Han 2020).

Overall, the current situation is a narrative of the history of today, presented in the first person of the writer, but correlated with the social background of our time. The narrative of today as the living of real experience awaits a generalizing reflection of its potential on behalf of future generations. In this regard, it becomes relevant to refer to the experience of transdisciplinary research, which makes it possible to feel the existential situation and put it into words. In transdisciplinary research, personal and paradigmatic research experiences meet. Transdisciplinarity exists as an articulation of the ordinary and the theoretical in the complexity of life. According to complexity theory, historical events have the ability to reproduce in new circumstances. Remakes of historical events evokes a rethinking of what constitutes the nature of humanness in the new era (Kiyashchenko & Golofast 2018, 2020).

Cave competencies

Historically, crises often have become hallmarks of societal advancement after all. External shock therapies bled into times of societal pressure that – in the end – often pushed humankind toward social advancement, for some parts due to a stark natural selection effect (Gelter & Puaschunder 2021). During times of pandemics but also natural disasters, when human were forced into seclusion and social distancing by hiding in caves, humankind surprisingly often came out stronger than before. People hiding in caves developed so-called "cave competencies," which are currently studies by researchers at the University of Vienna (Grimm forthcoming).

The leap in a favorable direction during crises is for one explained by a natural selection effect as those who could adapt to a challenging surrounding survived. "Cavers" were more likely to estimate risks and imagine future consequences, and they were able to maintain a natural circadian rhythm without being guided by changes in natural light. Psychologically stronger, more self-reflective and cooperative individuals with better sensitivity to the passage of time, a better ability to discount risk over time, and with better social competences had a natural advantage when caving together.

In cave groups, cooperation, compassion and care for fellow group members evolved. Some say the distinction between humans and animals began when individuals suffering from injuries that would have been fatal when living alone were cured out by helping each other in groups. For instance, life-threatening fractures of essential bones like that of hips or legs, were first survived in the evolution of humankind because other group members took care of the injured during the healing process. This trait only developed in human. Humans were the only species in the position to recover when fellow group members had the compassion to take care of the sick until they could get up again and take care of themselves. This form of altruism is a uniquely humane-reflective and emotionally-driven feature. It would therefore be compassion that distinguished human from animal in the evolution. Care of another developed more accentuated during times of crises and when living in caves together (Puaschunder & Gelter forthcoming).

People in seclusion also learned to live in groups in congested places and handle their emotions during stress. Cavers are also believed to have developed better imagination in seclusion (Grimm forthcoming). In the history of humankind, the ability to engage in inner dialogue and use of imagination to mentally flee crammed surroundings often prospered when human were isolated during times of crises. As anthropologists infer from cave drawings, the paintings' sophistication advanced over time and may have been linked to the evolutionary rise into new forms of humans that could use their imagination to travel in their minds. Scholars now have summed up the achievements of the brain and social development during times of social seclusion as "cave competences" (Grimm forthcoming). The ability to deal with oneself in a turbulent world in the eye of risk and uncertainty in a group in a congested place was also a key driver in developing the courage to open up new opportunities for expansion after crises, for example when Europeans landed in North America in the century after the Great Plague of the 14th century in Asia and Europe.

Not to idealize COVID lockdowns or envisioning going to Mars these days, the novel Coronavirus pandemic has shock-forced society to socially-distance as never before during modernity. Drawing from the potential rise of "cave competences" during the pandemic, one could derive inferences for the future developments of humankind and society. As the fear of a virus contagion through human contact led to lockdowns in all major economies around the globe, human caved as never before in modern times. This extraordinary situation already now has led to an advancement wave in digitalization, social justice call and imagination to attempt bold and new endeavors, such as flying to Mars, online learning and shifting fiat money and entire economies to cryptocurrencies (Puaschunder 2021b).

Constructive effects of crises

Having started in 2019, the novel Coronavirus COVID-19 has to this day led to over 230 million reported infections with COVID-19 and almost 5 million deaths reported around the world (Worldometer 2021). The way we live, work and interact has dramatically changed due to the global pandemic. COVID-19 had a socio-psychological impetus on society (Gelter & Puaschunder 2021; Puaschunder & Gelter forthcoming; Puaschunder, Gelter & Sharma 2020).

This article acknowledges the ambivalent nature of the COVID crisis with an accentuation of constructive effects. Drawing from the work of M. Davis Cross (2015), who writes about the transition from crisis to catharsis, but also from behavioral insights that outline that human decision-making is challenged by crises (Puaschunder 2021a), this article portrays the Coronavirus crisis as a sharp shock update of decision-making mechanisms but also underlines the solution of long-standing problems via the crisis (Kiyashchenko & Golofast 2018, 2021).

Every crisis may have also favorable positive externalities. For one, crises points may contribute to the resiliency structure of the community (Brunnermeier 2021). Society may be forced to focusing on the transition from an individualistic position aimed at extracting a particular good to cooperative behavior in order to maximize the public good. Crises may therefore often proceed the individual from the position of selfish altruism to cooperation steps that may be hindered by "free rider problems." Research in the fields of psychology and sociology of management shows the most favorable for the community is the construction of interaction according to the principle of reciprocity, based on the fragmentation of trust (Schelling 1981) in specific situations. However, this type of interaction is possible with the unity of the core values, while applied motivations may differ (Sabatier & Jenkins-Smith 1993). In this case, communication is built according to the logic of "concentric circles", when the greatest solidarity and mutual assistance is manifested by the core of the group, while communication with other participants is coordinated on the basis of "weak ties."

Research on coping psychology (Frankl 2020) on group behavior overlaps with research on the ethos of group interaction. According to the works of the Russian philosopher Prof. Dr. Kiyashchenko, the archetype of the renewed ethos is formed on the basis of a community of interest and is supported by the coordination of long-term cooperation and the particular interests of the participants in dialogue maintenance, as well as their fine attunement to empathic communication. In the digital age, these competencies help transcend national boundaries, pushing apart frontiers in the "exchange zone" (Galison 2004) of interdisciplinary dialogue.

Coronavirus COVID-19 Great Reset Potential

Drawing inferences from the rising trend of "cave competences," society will likely grow more attentive to each other's health and well-being in the post-COVID era to come. COVID-19 also already heralded a pro-active care for maintaining a healthy workforce. A healthy workplace environment and an employee culture of care will likely become an essential corporate feature to attract qualified labor, whose bargaining power has already increased during COVID in the eye of labor shortages in human-facing industries and positions. The overall long-term well-being of employees including preventive care in teams will become a key issue and competitive advantage to attract a productive workforce for employers of tomorrow (Gelter & Puaschunder 2021; Puaschunder & Gelter forthcoming).

Working from home will have changed employees to become more independent and personal time-sensitive but also more focused on the health and well-being of their immediate surrounding (Gelter & Puaschunder 2021; Puaschunder 2020). Future employers will have to develop empathy and a holistic understanding of health and responsible self-care of prevention in harmony with society and the environment (Puaschunder & Gelter forthcoming). A shared

culture of group prevention but also the luxury in salutogenesis funded and supported by the employer that nurtures a healthy and ecologically-harmonious lifestyle will be future competitive advantages of employers and fringe benefits to attract scarce labor (Gelter & Puaschunder 2021). Learning-in-teams to prevent contagion will become a new endogenous growth factor when considering the risk of long-term debilitation of trained key personnel after a COVID-19 infection (Puaschunder & Gelter forthcoming; Puaschunder, Gelter & Sharma 2020). The longer COVID-19 prevails, the more this trend may extend it to all sorts of industries and society domains.

Comparative analyses of mental processes and functions in conditions of joint activity are distinguished by the levels of interconnectedness of activity subjects. At the level of "tacit co-presence," the state of a person changes in comparison with how the psycho-physiology functions in solitude states. While at the level of stronger mutual influences, factors such as co-excitation, imitation, conformity, change in the threshold of individual sensitivity are included in the regulation of mental activity. A comparative analysis of the psycho-motor skills of individual and joint actions shows differences in the accuracy, speed and efficiency of work as a synergistic effect of collective action (Communication Problem in Psychology 1981, p. 42). The reaction time and the magnitude of its spread vary greatly, not only depending on the functional state of a person, but also on the characteristics of communication partners: their functional state, degree of activity, speech productivity, resistance to interference, social significance of relationships with a communication partner. Among the physiological reactions, numerous facts of coincidence of pulse oscillations and reminiscent of resonance processes, deserve attention. The phenomenon is revealed only with simultaneous activity in the mutual presence (Communication Problem in Psychology 1981, 193).

Communication disbalances up to group disintegration are largely associated with changes in the group structure in the process of creative problem solving. Along the progress through the phases of creative problem solving, relationships intensity and structure fluctuate from those inherent in a well-organized team to those inherent in a poorly organized group, and vice versa. The mobility of intragroup role differentiation is characteristic of most of the processes of solving a creative problem, while the stability and uniqueness of role attributes are usually present only in the initial and final phases of the problem-solving process (Communication Problem in Psychology 1981, pp. 89-90). A "spacious" relationship allows for a reversal of "roles." The ability to maintain this attitude despite changes in the positions of each of the members is the special ability of a person to communicate. Functional relationships, in which the other is regarded as an object, are extremely fragile, since they lie outside the personal qualities of communicating people – these qualities do not fit into this type of relationship, and often only interfere with their functioning. The ability to speak the truth in communication is ethically equivalent to the recognition of the personality in another person, and therefore, his or her right to a different opinion and behavior.

Taking into account human interaction presupposes a constructive combination of internal and external, which gives rise to a compendium of transdisciplinary generalization. When we talk about the level of humanness, we cognitively rise to the level of philosophical generalizations in a meta-position that takes into account the relationship between the internal and the external in a human and the distribution of responsibility between the personal and the collective existential frames. The resource of such understanding can be represented by a transdisciplinary approach in science, which passes through real economic, legal and managerial mechanisms (Kiyashchenko 2015, 2017, 2020).

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Tactics of Listening to the Suspect or Defendant

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ABSTRACT: The key to an end, more precisely, the process in which the confrontation between the accuser and the defendant is carried out, resulting in a final verdict of the judge, it is the success of a well-conducted interrogation. A well-conducted interrogation does not refer to well-trained staff because the interrogation is not an on-site investigation action or an action for the realization of the criminal case, so we can talk about staff in the present case. The interrogation is primarily an art, in which self-knowledge, investigation of the deed, going through the road that the suspect or defendant after his accounts, the inter-person relationship between the forensic psychologist and the suspect, the knowledge of the interviewee, make up the sphere of forensic psychology. We cannot define which is the most important piece of a pending criminal case because all paths leading to the completion of the investigation are equally important as the interrogation process, but we cannot consider a valid investigation if we have the perpetrator in custody. Of course, a criminal case can be completed by the court and in the absence of the defendant if his death was declared. However, we are therefore talking about the case where we have the suspect or the defendant in custody and are to be heard in the file opened against him. As a result, investigators may hope to find out the truth from him, but in this case, the result is divided into two categories, either he confesses or he will not confess and will be found guilty only after the investigators have gathered enough solid evidence proving his guilt. This is where the notion of art comes in, because investigators have the mission not to fail the process of questioning the suspect or defendant. Investigating specialists, more precisely criminal psychologists, consider the suspect or defendant the most important piece of the case. For specialists, the suspect is the only one who can answer the questions: When? What? How? etc.; this means the need for authorities to have him in custody. It is interesting that once in the custody of the authorities, they receive more special treatment, such as legal protection. Therefore, the questioning of a suspect or accused is a fascinating show between reason, feelings, experiences, logic and strategy, played by the two characters embodied in the good and evil, which made me discuss this subject in the scientific paper.

KEYWORDS: psychology, forensics, criminal trial, witnesses, suspect, victim, art

Introduction

In the specialized literature, from the common point of view, between civil law and criminal law, the interrogation, is encountered in the civil proceedings and not in the criminal proceedings, unless we refer strictly to the procedural.

The interrogation is defined in judicial practice as the statement of the suspect or defendant, with an important role in the criminal investigation. From the investigators' practices, a usual is observed in capitalizing on the suspect's statements in the construction of the evidence, in their term's *confession*, which determines the elimination of possible tracks that can lead to the finding of truth. The suspect's statements are vital in the criminal investigation, but there are numerous methods of misleading investigators that suspects use, but beyond this, this procedure is legally speaking, expressing the right to defense that can be done either independently or in the presence of the lawyer. The action of misleading investigators, does not fully represent a bad sign in the development of the investigation, as it can also be regarded as a utility, namely the more detailed knowledge of the suspect's typology.

Although the judicial research bodies choose to harm the suspect's statements, in the current regulatory code of the Romanian Criminal Procedure Code, there is no longer sustained by the corroboration of the statements of the suspect or defendant with the acts committed by all the evidence of the dossier. In the current doctrine, legal specialists consider the practice of investigators to corroborate the statements of the suspect or defendant with the finding of truth, and recommends that the confession be in line with the evidence of the file aimed at full analysis

of the evidential assembly. Whether the suspect or the defendant says or not the truth, the specialized doctrine does not encourage the adaptation of a naivety position from the investigator to interviewed, because truth can be voluntarily or involuntarily distorted at any time.

Investigators are accustomed to the interrogation's endowment, whether we are talking about the testification of the deed, whether we are talking about the refusal to recognize the deed or facts committed. There are also special cases where the suspect or defendant though not guilty, it recognizes the act in which it is incriminated in all that he did not. This topic is quite interesting and can be part of the judicial error, i.e. the condemnation of an innocent person. Often, this "loyalty" action of the interrogated to the "true perpetrator" is trained by various reasons for a psychic nature: fear, the existence of a material interest, hiding a more serious deed, etc. As a result, it is understood that confession is not a fundamental evident element, but more precisely has a conditioning character in the investigation. Accordingly, according to the allegation, conditioning must be corroborated with the other evidence existing in the dossier and to be given a special character in the sense that it can divide into two categories the investigation or the theory will be accepted in its entirety or in part.

The confession may also have a *retractable statement,* i.e. the suspect or defendant withdraws his previous statements. However, the declaration offered during or at the end of the interrogation, has a particular value, as it outlines the whole of the crime committed and placed it as an active or passive subject of the deed.

The criminal investigation body must gather evidence in favor of both the suspect and the defendant, even if he admits his facts (Buzatu 2013, 106).

Special notes on the psychology or the defendant

In the Romanian criminal doctrine, there have been some regulations on the notion of suspect, which is called on the old Romanian Criminal Procedure Code, but in the new Romanian Criminal Procedure Code, the accused takes the suspected quality under Article 77 which specifies the following *"person Concerning which, from the existing data and evidence, the reasonable suspicion results, that it has committed an deed provided by the criminal law".* Once sufficient evidence has materialized, on the deed incriminated by the criminal law, against the suspect, it evolves to the qualification in accordance with Article 82 of the new Code of Criminal Procedure, ultimately becoming part of the criminal proceedings.

A criminal investigation aims at the prosecution of the perpetrator by the judicial research bodies and has the role of being in direct contact and directly with the suspect or defendant. This action is called a criminal legal relationship and has as the main characters the state represented by the judicial research bodies and the offense in charge of the deed committed.

Psychological particularities of the process of forming and rendering statements of the suspect or defendant

As regards the statements of the suspect or defendant, it is analyzed on the basis of the typology of the offender and the route aspects, the way in which the act was committed. This action passes through a phased psychological series that defines the suspected character and the course of the criminal investigation. We have three important steps, as follows:

- *The first stage:* provides a first aspect of the subjectivity of the offense by representing the act and the tendency of committing or the failure of the deed as well as criminal resolution. This first step connects with offenses committed intentionally.

- *The second stage:* the criminal activity is carried out which is divided into three phases as follows: the phase of the preparatory acts, the phase of the execution acts and the phase of the consequences.

In the second stage, the offender crosses a period with a strong impact on his psyche, which determines the loss of concertation on the act. Here's that there is a cerebral imbalance in his

psyche, which determines the sensory reception, more precisely the strong focus on the objective of the offense, although the offender would not want to lose any detail, however small it would be. However, the psychic chaos that the offender has may also be due to the lack of experience in committing crimes, such as the offender is at his first act incriminated by criminal law.

- *The third stage:* It is also called *post-criminal* and is subject to the occurrence of mental trials caused by the offender's fear of being responsible for the committed criminal offense.

Finally, it is important to understand how psychological processes are conducted, as it means the definitive of the subjective side of the criminal investigation (Bulai 2000, 97).

Psychology of suspect or defendant at the time of interrogation

At the level of the psyche of the investigated, there are some characteristics to be taken into account, especially in order to avoid misleading the judicial bodies by the suspect, through the three ways listed above, which can avoid criminal liability: *simulation*, *dissimulation* and *lie*. As I have already said, these actions are at the level of human psyche, and for the authorities it becomes a challenge, a test of attention to notify and interpreting the way in critically (Stancu 2015, 469).

Detection of the presence of emotions

This characteristic of the human psyche creates a fairly large problem in the criminal investigation tactics. We understand the state of emotions as defensive behavior against external factors we perceive as threatening, which is perfectly normal. The idea of being taken or received at the interrogation session, in front of the judicial research bodies, a defensive field characterized by emotions that extends. So, during the interrogation, the suspect manifests various uncontrolled actions such as: repeated legs, abundant sweat, panic, etc. From judicial practice it is known that not all suspects have such manifestations, some being very calm, quiet, and relaxed. In this case, we can talk about people who have been investigated, who "have experience" with judicial research bodies such as: recidivists or those familiar with criminal investigations.

The presence of emotions in the suspect can mean for investigators a factor that would make it difficult for not how the investigation takes place. For criminal psychologists, the suspect's emotions become a shield or a gun in finding out the truth, more precisely, being very emotional, the suspect triggers the state of fear, and then confesses the act committed, but the suspect can panic, and the struggle of truth is lost. Analyzing this, we understand, if the suspect is independent in the query session and triggers the state of panic, the research bodies are obliged to stop the investigation, otherwise violates the law-making use of the position they have. If the suspect is a lawyer, he can defend his customer and has the power to close at any time the interrogation session, if it is found by the violation of human dignity.

However, the intensity of the emotions caused by the defensive action of the suspect's psyche can cause investigators to draw conclusions on the sincerity of the heard and the validity of his allegations. These psychic actions can make the experienced magistrate recognize easily if the suspect is cooperative or not (Athanasiu,1977, 2-5).

Simulation and dissimulation attempts

To begin with, we need to know that the notion of *simulation* means counterfeiting the information offered and *dissimulation* is the concealment of information, all by gestures, mimics of the face, etc. These suspect attempts to get rid of criminal liability are as follows: refusal to speak or recognize, "spontaneous" or created alibi presentation, recognition of minor facts, simulating a handicap behavior (deafness, blindness, memory loss, epilepsy crises etc.).

There are often cases where at the end of the investigation or even before the courts suspects or defendants to withdraw their statements on the grounds of the pressures to which they

were subjected. Although this action is really justified, judicial research bodies must take this into account and verify the validity of the statements several times (Stancu 2015, 470).

Tactical rules and procedures in the hearing of the suspect or defendant

The first rule in the case of interrogation tactics is to prepare obedience, which means there must be a thorough organization as follows:

- *Studying documents* that are attached to the file and proof of the prosecution. As a result, forensic tactics in this case is the knowledge of the joints in which the deed has occurred, the evidence collected from the spot, to the witness statements, the injured person, etc.
- *Knowledge of the personality of the suspect or defendant* serves as the subject of the subjective side of the offense committed, having the following elements defining the personality of an individual: the psychic features of the personality and the factors that have influenced the evolution of speech.
- *The organization of the way in which listening* is carried out, which aims to realize a general plan of prosecution against the data was conceived for a particular criminal case (Ciopraga 1997, 251).

The tactical framework of the actual obedience of the suspect or defendant

In the Romanian Criminal Procedure Code, the tactics of listening to the suspect or defendant is regulated under the empire of Articles 70-74, being structured on three main steps, as follows: *Creating a fabric atmosphere, adopting by magistrate or police officer of a worthy attitude and creation an atmosphere confession confession.*

- *Creating a favorable atmosphere* refers to the establishment of psychological contact with the suspect, becoming a principal activity that judicial bodies have at the beginning of the investigation. This stage is essential in achieving the results favorable to investigators, being more important if the suspect is at first hearing.
- *The adoption by the magistrate or police officer of a worthy attitude* is fundamental in the relationship between the citizen and the state in the present case.

The attitude of the judicial bodies by which the state expresses its authority must be close to the suspect or defendant, being an important factor in solving the investigation. Although we are different, the authorities have the mission of treating us equally when we appeal to the state's power. In the case of hearings, if we have an unfriendly situation between the investigators and interviewed, then we can say that the interrogation session is lost, and thus we do not obtain a statement from it, a positive attitude leads to statements favorable to the authorities or even the confession of the deed.

- *Creating an atmosphere of confession* is the proximity of the suspect investigator or the defendant. It is not at all advisable an arrogant, ironic, offensive, infatuating etc.

Finally, the attitude the auditor has to adopt is positive and, if possible, according to the doctrine, there should be a translation of characters, a game of imagination in which the investigator acts as a suspect.

The audio-video recording made with the help of digital or other technical means of the statements of the suspects or defendants is made according to the criminal procedural rules and with the application of the same tactical rules of listening. The suspect or defendant will also be informed that the statement will be recorded (Buzatu 2013, 112).

Conclusions

What I presented in this paper is a little theory in what is the forensic tactic tactics of listening to the suspect or defendant. It was understood in the above that a successful investigation is considered when a successful interrogation process was also successful. In order for the

interrogation process to have favorable results, there must be an inter-human friendship relationship between the investigator and the suspect. Although we are more than seven billion people on earth, we are all different, and the art of interrogation, of which we have specified in the work, makes sense with the help of the talent of the criminal psychologist.

In order to get the favorable statements, the criminal psychologist has the mission to translate into the skin of the main character, namely the suspect or the defendant. For the suspect or defendant, the psychologist must be a friend, an oasis of escape from the stress to which he is subject in criminal proceedings, so he must have sufficient confidence in the auditor. In this case, the suspects or defendants usually decide to confess the deed committed under the empire of conditions imposed by them. Therefore, the suspect, due to his naivety, expects the authorities to promise to meet the required conditions, mostly reducing the penalty.

The trial of questioning the suspect or accused can finally be regarded as a football championship, a chess championship, as a theater play, in which of course the investigator will win, even if the suspect is declared guilty or innocent.

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Abuse in Service in the Context of Adoption Decision of the Constitutional Court of Romania no. 405 of June 15, 2016

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ABSTRACT: Abuse in service is, in the current legal system, a topic of interest, especially after the adoption of Decision no. 405 of June 15, 2016, pronounced by the Constitutional Court of Romania. It ruled that an act constitutes the crime of abuse of service only in so far as by the phrase "in a defective manner" we mean "in breach of the law." Through this decision, the Constitutional Court of Romania also ruled that the phrase "in violation of the law" implies that a person (suspect or defendant in a criminal case) violates a primary rule of law. By primary norm we mean Government Ordinance or law adopted by Parliament. No primary rules of law regulations, ministerial orders, duties in the job description in an employment contract.

KEYWORDS: abuse of service, decision, Constitutional Court, primary legislation

Definition of abuse in service

The Romanian legal system is not the only legal system that criminalizes abuse of service. This crime is also criminalized in other states, but it is called abuse of power.

In the regulation of the new Criminal Code (entered into force by adopting Law no. 286/2009, published in the Official Gazette of Romania no. 510 of 24.07.2009), abuse of service presents a series of new aspects compared to the old regulation. Thus, one of those aspects relates to the fact that, according to the new regulation, this offense presupposes the existence of a more special essential requirement. This requirement relates to causing damage.

The New Criminal Code brought together in a single article the crimes of abuse of service against the interests of persons, against public interests and by restricting certain rights (art. 246-248 from the old Criminal Code).

According to the Criminal Code in force, abuse of service is "the action of the public servant who, while carrying out their professional duties, fails to implement an act or implements it faultily, thus causing damage or violating the legitimate rights or interests of a natural or a legal entity, shall be punishable by no less than 2 and no more than 7 years of imprisonment and the ban from exercising the right to hold a public office".

According to art. 297 para. (2) NCP, constitutes an abuse of service the action of a public servant who, while carrying out their professional duties, limits the exercise of a right to a person or creates for the latter a situation of inferiority on grounds of race, nationality, ethnic origin, language, religion, gender, sexual orientation, political membership, wealth, age, disability, chronic non-transmissible disease or HIV/AIDS infection.

Brief analysis of the crime of abuse of service

The legal object is represented by the social relations regarding ensuring the development in optimal conditions of the activity of the public or private legal persons or the protection of the legitimate interests of the persons against the abuses coming from the public servants. As a rule, the crime of abuse of service has no *material object* (Udroiu 2014, 374 and the following).

The active subject of the crime may be a public servant as defined by art. 175 para. (1) the new Criminal Code. *The general passive subject* is the state, while *the special passive subject* is the person who has borne the consequences of committing the crime.

Criminal participation is possible in all forms.

The objective side. The material element of the crime of abuse of service consists in the non-fulfillment of an act or the defective fulfillment by a public servant in the exercise of his/her duties. *The immediate consequence* of the crime of abuse of service is to cause damage or injury to the rights or legitimate interests of a person. *The causal link* between the material element and the immediate consequence must be proved.

The subjective side. The offense of abuse of service in its basic form can be committed with both direct and indirect intent.

In connection with *the forms of the crime,* the following should be noted:

- Preliminary acts and attempt are possible, but not incriminated;
- The consummation of the crime takes place at the moment of accomplishing the action or inaction that constitutes the material element of the objective side;

If it is committed in a continuous form, the deed is exhausted on the date of the last act of execution. The crime of abuse of service is punishable by imprisonment from 2 to 7 years and the prohibition of the right to hold a public office.

Conclusions following the adoption of Decision no. 405 of June 15, 2016

It is not a novelty that, both in the field of judicial practice and in the specialized doctrine, art. 297 para. (1), introduced with the advent of the new Criminal Code, has aroused numerous controversies and disputes among legal practitioners. Thus, in order to ensure the unitary application of the legal provisions, the Constitutional Court was invested with solving the exception of unconstitutionality of the provisions of art. 297 para. (1) of Criminal Code.

In motivating this exception, the authors who promoted it agreed with the opinion that the criticized legal provisions are lacking in predictability and accessibility, and the phrase "does not perform an act or performs it incorrectly" this being precisely the conduct that defines the material element of the crime of abuse of service.

It was considered that the legislator established an incrimination that has a general character, so that the actions or inactions related to the activities carried out by the official may be mentioned in the provisions of other normative acts than criminal law (undetermined), in the job description or may be situations of in fact, unregulated in writing. Therefore, the criticized provisions have an obviously ambiguous character, there is also the possibility of regulation regarding the conduct of the public servant by another authority, besides the legislative one. It is estimated that, in the case of crimes such as robbery or hitting, the legislator has concretely described the conduct he intends to sanction, which is not found in the situation of the crime of abuse of service.

The fact that the legislator did not formulate *expressis verbis* which are the concrete legal provisions whose violation, by an official, has as a consequence the application of a criminal punishment, creates the premises of subjective interpretations and abuses.

Also, among the most important reasons inserted in support of unconstitutionality, the authors of the exception stated that the legal provisions criticized are unpredictable and unpredictable, leading to their impact on some situations that cannot be anticipated by those accused of committing them. The direct consequence of this fact lies in the issuance of abusive indictments, being possible even convictions on non-objective, arbitrary criteria.

Due to their unpredictability and ambiguity, the criticized provisions contradict art. 1 para. (5), art. 21 para. (3) of the Constitution, art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the United Nations Convention against Corruption adopted in New York and, implicitly, art. 11 para. (1) and (2) and art. 20 of the Constitution.

In accordance with the provisions of the European Court of Human Rights (Council of Europe 1950), art. (7) par. 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which enshrines the principle of legality of incrimination and punishment - *nullum crimen, nulla poena sine lege,* in addition to expressly prohibiting the extension of the content of existing crimes to acts that did not previously constitute offenses, also provides the principle according to which *the criminal law should not be interpreted and applied extensively to the detriment of the accused, for example, by analogy.*

It follows that the law must clearly define the applicable offenses and penalties, this requirement being met when a litigant has the opportunity to know, from the very text of the relevant legal rule, when necessary by interpreting it by the courts and after obtaining adequate legal aid, what are the acts and omissions that can engage his criminal liability and what is the punishment he risks by virtue of them (Scoppola v. Italy, Del Rio Prada v. Spain, Kafkaris v. Cyprus, etc.).

In its case law, the Court has ruled that a legal notion may have a different content and meaning autonomously from one law to another, provided that the law using that term also defines it. Otherwise, it is the recipient of the norm who will establish the meaning of that notion, on a case-by-case basis, through an assessment that can only be subjective and, consequently, discretionary.

In relation to the present case, the Court found that the term *"defective"* is not defined in the Criminal Code and does not specify any element in relation to which the defect is analyzed, which generates its lack of clarity and predictability. This lack of clarity, precision and predictability of the phrase *"fails to comply"* with the criticized provisions creates the premise of their application as a result of arbitrary interpretations or assessments.

Taking into account all these considerations, as well as the fact that the person having the status of a civil servant within the meaning of the criminal law must be able to determine unequivocally which conduct may have criminal significance, the Court finds that the phrase "defects" 297 para. (1) of the Criminal Code *can be interpreted only in the sense that the performance of the service is performed "in violation of the law".* This is the only interpretation that can determine the compatibility of the criticized criminal norms with the constitutional provisions regarding the clarity and predictability of the law.

In conclusion, the Court ruled that the material element of the crime of abuse of service consisting in the non-fulfillment or defective performance of an act should be analyzed only by reference to duties expressly regulated by primary legislation - laws and ordinances of the Government. Therefore, the normative acts that can regulate the duties of the service are not only those issued by the Parliament, but also the ordinances and emergency ordinances of the Government, the effects of which are assimilated to the law.

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Some Aspects regarding the Crime against Humanity

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ABSTRACT: The crime against humanity is also part of the category of international crimes. The paper briefly presents the evolution of these illicit deeds, as well as the transition from the theory of international law to the practical approach. Serious deeds define this category of crimes that affect both people's life and physical and mental integrity. One of the conditions of crime against humanity is the civilian population, against which the attack is directed. An important role was played by the International Military Tribunal at Nuremberg, which tried the Trial of the Main War Criminals, paving the way for establishing an International Criminal Court with unlimited jurisdiction in The Hague.

KEYWORDS: massacre, illicit deeds, criminal offence, International Military Tribunal, persecution

Introduction

The international crime has been classified in the category of illicit acts committed by states through their authorized representatives or by private persons in their own name, but imputable in all cases, under the aspect of criminal sanction, to natural persons, so it can be defined as a deed consisting of in an act or omission committed with guilt, by a person as an agent of the State or in his own name and interest, in violation of the law and interests protected by international law and sanctioned by his incrimination by international law (Barbu 2015, 13-14).

The phrase "crime against humanity" is first mentioned during the Armenian massacre, but will be precisely defined in international law during the Nuremberg trials. The use of the term genocide, invented by the Polish Jew Raphael Lemkin, will also be introduced, which will then be adopted by international organizations.

This crime, defined as "the systematic destruction of a national, ethnic, racial or religious group", will be codified by the United Nations General Assembly in the 1948 Convention on the Prevention and Suppression of Crimes of Genocide.

As early as 1915, the Allied governments of France, Britain, and Russia spoke of "crimes against civilization" and "crimes against humanity", terms used in the Treaty of Sevres about the massacre of the Armenian population by the Turks. This legal wording will be adopted in the trials of the Martial Court of the Turkish court against those responsible for the crimes. But after the Second World War and the tragedy in the Holocaust, there is a need to identify and define precisely, in international law, crimes against humanity.

The term genocide, coined by Raphael Lemkin, defined as "the systematic destruction of a national or ethnic group" is beginning to be used in legal language.

The agreement, signed in London on August 8, 1945, between the United States, France, Great Britain and the USSR, includes genocide in "crimes against humanity," which in turn are included in the broader category of "international crimes". Between November 20, 1945, and October 1, 1946, the - International Military Tribunal at Nuremberg judged Nazi leaders.

The charges under the jurisdiction of the Court are: crimes against peace against those responsible for the war of aggression, war crimes based on the principle of individual criminal responsibility and crimes against humanity or crimes, extermination, enslavement, deportation and any inhuman act committed against civilians, before or during the war, persecutions that violated the law of the country in which they were committed (it.gariwo.net).

The evolution of crimes against humanity and crime-fighting institutions themselves

The history of crimes against humanity is even older than that of rights. These range from the massacre of the Ilots by the Spartans, which took place during the Peloponnesian War, to that of 388 AD, which took place at Callinico on the Euphrates and was carried out by Christians against the Jewish community; to the cruel repression of the Thessalonica rebellion, which cost Theodosius a year of "fasting" in the sacraments, imposed by Bishop Ambrose.

In 1474, Peter Von Hagenbach, the Grand Executor of Alsace, was brought to trial by Sigismund of Hamburg for exercising power in a tyrannical and cruel manner, provoking the rebellion of the city of Breisach. He was charged with murder, rape, perjury, and other offenses "in violation of God's laws", and was sentenced to death for such evils.

On October 20, 1827, the Turkish-Egyptian fleet was attacked without warning and destroyed by the Anglo-French-Russian naval team, as on August 16 of the same year, the sultan had rejected the ultimatum of France, the United Kingdom and Russia to end the persecution of the Greeks. The persecution of the Jews, whose history coincides with that of the people themselves, must be taken into account. In the twentieth century, the subject of human rights was the privileged object of attention not only of philosophers, political scientists and utopians, but also of statesmen.

At the end of the Great War, a "Commission on the Responsibilities of Warlords and the Application of Sanctions" was set up, and clauses on punishment were inserted in the Treaties of Versailles and Sevres: the Emperor of Germany, William II, guilty of "a very serious crime of international morality and the sacredness of the treaties"; Turkish leaders responsible for the extermination of Armenians and, in general, anyone responsible for a serious crime.

With the end of World War II, human rights justice will move from the theory of international law to the practical level. In fact, immediately after the war, the "Nuremberg Trials" took place, a fundamental event in the history of human rights and in the punishment of crimes against humanity (www.rassegnapenitenziaria.it).

Conditions for withholding the crime

The category of crimes against humanity includes serious, concerted acts that harm the life, physical and mental integrity of people (Pașca 2020, 112). A special achievement in international criminal law was, on the one hand, the full implementation of the principle of legality, and on the other hand, the creation of a permanent international criminal jurisdiction. In this sense, in Rome, in 1998, the establishment of the Permanent International Criminal Court was approved (www.studiperlapace.it).

Article 7 of the Statute of the International Criminal Court defines crime against humanity including acts committed intentionally in the context of a large or systematic attack on the civilian population, such as: murder, extermination, slavery, deportation or forced transfer of population, imprisonment or other form of serious deprivation of personal liberty, in violation of the fundamental provisions of international law, torture, rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or any other form of sexual violence, persecution of any identifiable group or community for political reasons, racial, national, ethnic, cultural, religious, sexual, enforced disappearances, the crime of apartheid, other inhumane acts of an analogous nature intentionally causing great suffering or serious harm to physical integrity or physical or mental health (http://www.iustitiaetpax.va/).

Crimes against humanity, constituting an attack on life, bodily integrity, liberty, honor and human dignity, are provided in the criminal law of all countries as common law crimes (Barbu 2015, 91). The generalized and systematic attack consists in committing multiple acts, a single act not being sufficient for the retention of the crime, but it can be classified as such, insofar as it consists in several of the conducts described in art.7 par.1 of the Statute (for example, murder, torture).

Civilian population

Another condition for the existence of the attack is to target the civilian population, an element that will make it easier to distinguish in relation to most war crimes targeting combatants. According to the *Introduction* from art. 7 of the *Elements of Crimes,* "the attack against a civilian population" designates the conduct that involves several acts from those provided in art. 7 par. 1 of the Statute, committed against civilians in applying or supporting the policy of a state or an organization, aiming at such an attack (Nițu 2020, 177-178).

The civilian population consists of a group of people, located on a well-defined geographical and political territory (Trunchici 2009, 209).

The specific **material element** of this category of crimes against humanity consists in committing acts that have a special characteristic, related to the contextual circumstance (Jarka 2006, 64) in which they are committed, namely, widespread or systematic attack directed against the civilian population (Barbu 2015, 46). The systematic attack can also be the periodic, regular attack, repeated at different intervals, in the realization of a plan to liquidate the civilian population.

Crimes against humanity are characterized by the scale and systematic nature of the attack. The attack takes the form of human acts, being the result of a policy of terror, are preconstituted and are directed against a significant number of people (Pașca 2020, 116).

Crimes against humanity are distinguished by the action that constitutes the material element, being provided in the incrimination text in the form of alternative modalities, as follows:

a) Murder

"Murder is a crime against humanity when it is committed in a widespread or systematic attack on a civilian population and in the knowledge of such an attack" (Art. 7 para. (1) letter a) of the Statute of the International Criminal Court)

In order to prove the guilt of a person, the International Criminal Court has held that it is not necessary to prove the existence of a corpse, but it is sufficient to accurately describe the deceased person (Pașca 2020, 119).

b) Extermination differs from the crime of murder, as it aims to kill a significant number of people, without specifying their minimum number.

The victims of the attack must be from the civilian population.

c) Deportation or forced transfer of population

The crime is defined in the "Elements of Crimes" as the act of deportation or forced transfer, without a legal basis, to another state or another place, by expulsion or other coercive means. The transfer action does not have to be accompanied by physical aggression, the general coercive context being sufficient to determine a person to accept the move.

The person's decision to leave the home or city of residence may be the consequence of another coercive act of a psychic nature, such as the threat or fear caused by the destruction of civilian property by bombing or arson.

Moving a person away from his/her residence aims at depriving him/her of the prerogatives of the property right over the owned property.

d) Rape. Sexual slavery

The Criminal Tribunal for the Former Yugoslavia was the first international criminal tribunal to include rape as a crime against humanity.

The crime of rape, according to the International Criminal Court, is a form of physical aggression in order to intimidate, sanction or ridicule a person.

Rape is considered a form of dishonoring and terrorizing a defenseless woman.

Rape must take place during a widespread or systematic attack on the civilian population.

Sexual slavery involves the exercise of one of the prerogatives of property rights, namely the purchase, sale, loan or exchange of persons for the purpose of subjecting them to acts of a sexual nature (Pașca 2020, 119-122).

e) Persecution of any identifiable group or community for political, racial, national, ethnic, cultural, religious or sexual reasons or in accordance with other criteria universally recognized as inadmissible under international law

The persecution of any identifiable group or community for political, racial, national, ethnic, cultural, religious or sexual reasons constitutes a crime against humanity (Article 7 (1) (h) of the Statute of the International Criminal Court).

Persecution can take various forms: extermination, imprisonment, forced transfer, destruction of homes, destruction of places of worship or any other property identifiable with the persons concerned in order to lose their identity. Persecution cannot take the form of an isolated act. These must be translated into orchestrated and systematic acts (Pașca 2020, 123).

Subjects of the crime

The active subject of the crime is not qualified, and can be any natural person, criminally responsible. Leaders, organizers, provocateurs or accomplices who took part in the elaboration or execution of a concrete plan or a plot to commit the crime against humanity, are responsible for the acts committed by all persons involved in the execution of this plan (Pașca 2020, 91-92).

At the same time, the international community (Fuerea 2002, 203) has adopted procedural tools to punish those guilty of crimes against humanity (Barbu 2015, 92). The active subject of the crime must act in full knowledge against the civilian population. The knowledge of the deed can be deduced from objective factual circumstances.

The motive for crimes against humanity is a policy of persecution or extermination of a hostile population on ethnic, racial, political or religious grounds. The motive for the crime can also be pecuniary in nature, in order to punish the enemies or their sympathizers, in the context of committing other crimes (Pașca 2020, 124).

The plurality of criminals is possible in all aspects, because we are dealing with a generalized or systematic attack.

The main passive subject is plural, because it is made up of all the people who make up the civilian population against whom the crime against humanity is directed.

The crime can also have a **secondary passive subject**, in the person of the one who is the direct victim of the generalized or systematic attack (Barbu 2015, 92).

Conclusions

After the Second World War, there were also crimes against humanity, defined as particularly serious acts of violence, committed by terrorist organizations, separatist movements of other types, acting for political, racial, national, ethnic or religious purposes.

If we analyze each type of crime separately, we can see that the provisions of the Statute must be corroborated with the Constitutive Elements of Crimes. Crimes such as murder, slavery, deportation, extermination are the most serious crimes against an individual or a human group. These crimes are provided in the criminal law of each country as actions of common law, constituting an attack on life, bodily integrity, freedom and human dignity.

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Military Expenditure, Oil Revenue and Economic Growth in Nigeria: A Joint-Interactive Term Approach

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ABSTRACT: The role of the Nigerian military in ensuring smooth operation and exportation of crude oil cannot be overemphasized. This is owing to the fact that the chunk of Nigeria's foreign exchange earnings comes from crude oil exportation. Boris (2015) confirms that oil is arguably the livelihood of the modern economy and it has now become the most essential commodity in the world. It is a statement of the fact that oil revenue is the major source at which governments at all levels in Nigeria finance their budgets. This is why the Nigerian military would leave no stone unturned in protecting the nation's source of living. However, while some scholars believe military expenditure plays a positive role in the economies of developing countries, others view the role as detrimental. One of the reasons why the analysis of military expenditure has not led to a conclusive result might be due to the non-identification of the correct channel. Investigating the role of the military sector on economic growth via the Nigeria oil sector may therefore be a good channel of analysis. Therefore, this paper tries to mainly investigate the joint nexus between military expenditure and oil revenue, and economic growth in Nigeria. To achieve this, time series data were gathered and analyzed using OLS technique with the aid of EVIEWS 10 package. The model used included a joint-interactive term. The result of the analysis reveals that military expenditure is individually statistically and significantly positive with economic growth. Though, as a joint interactive term with oil revenue, it is negatively statistically insignificant but this might be due to the oil revenue being individually statistically insignificant. The study, therefore, recommended military expenditure as one of the factors the Nigerian government should employ in influencing her economic growth.

KEYWORDS: Defense Spending, military expenditure, oil revenue, economic growth

Introduction

The role of the Nigerian military in ensuring smooth operation and exportation of crude oil can not be overemphasized. This is owing to the fact that the chunk of Nigeria's foreign exchange earnings comes from crude oil exportation. Boris (2015) confirms that oil is arguably the livelihood of modern economy and it has now become the most essential commodity in the world. It is a statement of the fact that oil revenue is the major source at which governments at all levels in Nigeria finance their budgets. Infact, Adenugba and Dipo (2013) assert that Nigeria's growth depends majorly on one export commodity which they identified as crude oil. Aregbeyen and Komolafe (2015) put the daily exploration of crude oil in Nigeria at 2.3 million barrels per day from about 37.2 billion barrels oil reserves with additional endowment of 187 trillion (ft^3) of natural gas. There is no gainsaying that crude oil is an important vehicle driving the Nigerian economy as it accounts for about 90% of the nation's exports while also contributing about 80% of total government revenues (Budina, Pang and Wijingergen, 2007). This is why the Nigeria's military would leave no stone unturned in protecting the nation's source of living. Abimbola (2019) corroborated this statement by stating that without the defense sector, there might not be a desired enabling environment and institutions required for the growth of the Nigerian economy to be achieved. The role of the Nigerian defence sector in tackling the activities of oil bunkerers, vandals and smugglers sabotaging the growth of the oil sector together with its contribution to the nation's

GDP is what guarantees the stable operations of the nation's source of wealth. Abimbola and Onazi (2018) opine that the Nigerian military system is an internal mechanism that protects and ensure smooth operations, distribution and exportation of this important commodity. It is on record that militants such as the Niger-Delta Avengers (NDA), Movement for the Emancipation of Niger-Delta (MEND), Movement for Actualisation of Sovereign State of Biafra (MASSOB) and a host of others have been successfully tackled by the Nigerian Military. Between 1999 and 2017, when democratic rule returned in Nigeria, many Oil workers and expatriates were continually kidnapped for ransom while many were even killed with oil facilities shut down by dissidents. These militants have targeted oil facilities disrupting smooth operations and consequently leading to drops in oil output. For instance, in the year 2016, oil outputs significantly dropped from 2.2 million barrels per day to 1.4 million, hitting the Nigerian economy badly when oil facilities such as that of Chevron were shut down by the Niger-Delta Avengers (Maclean, 2016). This partly contributed to the recession the country experienced thereafter. It is worth noting that increased military engagement implies increased military expenditure which is majorly financed from oil revenue. An instance of this is the withdrawal of $496 million from the excess crude account in the year 2018 which was made to purchase military hardware from the United States (Busari, 2018). Therefore, investigating the nexus between military expenditure and economic growth on the Nigerian economy via oil revenue is the task this study sets out to perform.

Statement of the Problem and Justification

Debate on the role of military expenditure on economic growth is still a burning issue. The analysis of the impact of the defence spending in relation to economic growth and development, security and governance is a complicated issue that is still open to debate (Deger and Sen, 1995). While Benoit (1978) finds that military expenditure plays a positive role in the economies of developing countries some other scholars believe the role is negative (see Deger and Sen, 1983). One of the reasons why the analysis of military expenditure on growth has not led to conclusive result might be due to the identification of the correct theoretical channel through which military expenditure exerts positive role on economic growth (Abimbola, 2019). Focusing on the sector where the bulk of the military operation is engaged in Nigeria might give a clue and lay to rest the raging debate on the role of the defense spending on growth. The oil sector, which contributes about 90% to Nigeria's foreign earnings and where the military operates majorly to protect and provide manageable environment in order to ensure non-internal interruptions, might be a good channel. Abimbola (2019) asserts the role of the Nigerian military as he states that Nigeria has been experiencing high military presence in all corners of her domestic economy due to violence and terrorism threats especially in the North-East and South-South geo political zones of the country which are very strategic in ensuring growth in the nation's outputs. Abimbola and Onazi (2018) corroborated this assertion as they stated that it is sufficing to say that economically, crude oil revenue is greatly important to the Nigerian economy while its exploration takes place in a highly violence volatile region of the country – the Niger-Delta. Therefore, using an approach where the two sectors are jointly analysed with the inclusion of an interactive term might lead to a right conclusion the defense spending-growth nexus, and the right channel- the oil revenue. This justifies the gap that has been left unfilled as no study to the best of knowledge of this research work has been able to investigate the role of defense spending on growth in Nigeria via her oil resource.

Objectives of the Study and Scope

The main focus of this research work is to investigate the nexus between defense spending captured by the military expenditure and economic growth in Nigeria through oil revenue.

Some other specific objectives are to investigate the individual roles military expenditure and oil revenue exert on Nigeria's economy. The scope covers a 43-year timeseries data from 1977 to 2019.

Empirical Literature Review

Grober and Porter (1989), in their work, reviewed Benoit's (1978) study in which he finds positive cross-country correlation of 0.55 between defense spending and economic growth in less developed countries. Their review only critically compared and contrasted the theoretical linkage between military spending and economic growth used by Benoit and his findings. Furthermore, their study also compared model specification in terms of single and structural models and analysis with those of other authors such as Deger (1986), Deger and Sen (1983) and Deger and Smith (1983) who also conducted their studies on LDCs. However, their study did not on its own carry out any analyctical research, but it was just a critique of others.

In a related review, Dunne and Tian (2015) used a multiple regression analysis with panel data divided into sub-samples. Their study used exogenous growth model with a data set across 104 countries covering a period of 22 years from 1988 to 2010. Dunne and Tian (2015) concluded that the effect of military expenditure is adverse and detrimental as they study revealed a significant negative nexus between defense spending and economic growth. However, even though the researchers tried to be wholistic in the series of data used, they failed to adopt or explicitly state the theoretical framework employed for their work. Adopting a theory of defense could have shown the mechanism through which military defense could influence growth and build their apriori expectation.

Cappelen, Gleidtsch and Bjerkholt (1984) used "pooled cross sectional and longitudinal data" on 17 OECD countries covering a period of 20 years from 1960 to 1980 with 2-Stage Least Squares (2SLS) method to estimate the structural form of the model while the reduced form was estimated using OLS. The findings of their model revealed defense spending has crowd-out effect on investment and a small positive impact on growth.

As a corollary to Aizenmang and Glick (2006), Pieroni (2009) using endogenous growth model examined the nexus between defense spending and economic growth with cross country sectional data. He modelled defense spending as a production function on its own and then specified its nexus with growth as non-linear relationship with the application of Cobb-Douglas production function. The result of the model shows a significant negative direct impact of defense spending on growth though only with the inclusion of an interactive factor. The result is opposite with insignificant positive effect with countries with low military burden.

Yildrim, Sezgin and Ocal (2005), in determining the effects of defense spending on economic growth, used crosssectional sample data gathered from some developing countries in the Middle East, including Turkey. Their data covers a ten-year period from 1989 to 1999. The researchers then used panel estimation technique specifically called the fixed effect model to estimate their models. The result of their analysis showed a positive significant relationship between defense spending and economic growth. Therefore, they concluded that "military expenditure enhances economic growth in the Middle Eastern countries and Turkey as a whole".

It needs to be noted however, that none of the empirical studies so far touched oil revenue in their investigation of military expenditure and growth. Some of the studies that focus on this observation are reviewed as below:

Model Specification and Methodology

This study adopts the model used by Dunne, Smith and Wilenbockel (2005). The model was also used by Abimbola and Onazi (2018) to investigate the relationship between oil revenue and economic growth. It is an augmented Solow growth model but with some modifications to include an interactive term, military expenditure and oil revenue. and economic growth. The model is as presented below:

$$lny = \alpha_0 + \alpha_1 lnl + \alpha_2 lnk + \alpha_3 lnm + \alpha_4 lno\_r + \alpha_5 lnm\_or + \alpha_6 lns + \alpha_7 lnm\_f + \alpha_8 lncrp + \alpha_9 lnx + \mathcal{E}$$

Where lny, lnm, lno_r, lnm_or, are the key variables of the model respectively implying log of real GDP, labour force, military expenditure, oil revenue and the interactive term (that is, military expenditure*oil revenue) with control variables s, standing for gross savings, lnm_f, manufacturing sector, crp, domestic credit to the private sector, lnx, exports, and lnk, capital stock while $\mathcal{E}$ is the error term. The parameters α_1, α_2, α_3. ,α_4, α_6, α_7, α_8, and α_9 are all expected to be greater than zero. The estimation technique employed by the study is ordinary least square such as used by Aizenman and Glick (2006) and Abimbola and Onazi (2018). The data for the analysis were all sourced from World Bank World Development Indicator (WDI).

Preliminary Analysis

The analysis of correlation matrix carried out on the data set shows low positive correlation of 0.4, 0.2, 0.14, 0.05 and 0.4 respectively between military expenditure, oil revenue, the interactive term, labour force and capital formation with GDP.
The descriptive statistic check carried out on the data indicates the variables have their mean and median within the minimum and maximum values implying high level of data consistency with low standard deviations. In addition, the unit root test for the data revealed that none of the series is stationary at 5% significance level using both ADF and Philip Peron but however integrated at I(1) after first difference while long run relationship was established among the variables using Johansen cointegration test with 6 cointegrating equations at 5% level of significance.

Result and Interpretations

Variables	Coefficients	Standard Error	Others
C	-68.99900**	10.17940	
Lnl	3.394974**	0.707611	R^2 0.998797 Adjusted R^2 0.998324
Lnk	0.080863	0.120020	Ser 0.102738
Lnm	0.236282**	0.054350	Durbin Watson 2.033242
lno_r	-0.002250	0.004303	Number of Observation 43
lnm_or	-2.93E14	5.12E14	level of significance: 5%
Lns	0.036641	0.047807	(**p<.05 implies significant at 5% level)
Lnx	0.300095**	0.079113	The dependent variable is real GDP
lnm_f	-0.033670	0.189761	represented by lny
Crp	-0.011528**	0.004779	

The result above indicates that the coefficient of military expenditure is positively statistically significant and conforms with its apriori criteria and the findings of Deger and Sen (1983). However, the coefficient of oil revenue (lno_r) and the interactive term (lnm_or) are both negative but statistically insignificant. Since oil revenue itself is statistically insignificant and negative, then it means that it is not a good channel through which military expenditure could exert positive relationship with growth. It also implies that the interactive effect of oil revenue and the military sector does not enhance economic growth in Nigeria. The above results imply that the impact of the military sector on the Nigerian economy is independent of its oil sector. This could be due to the socio-political efforts of the military in Nigeria. For instance, the Nigerian military has schools and hospitals well accessible to the public. They established a university that is 70% civilian driven. They also train and conduct orientation to citizens such as the empowerment training and education of former militants both locally and abroad through the amnesty office. Politically, they have also governed the country for about 24 years (1976-1999) within the sample period of this study. All these could yield a high positive direct or spinoff effect of military expenditure on economic growth in Nigeria.

Conclusion and Recommendation

The main aim of this study was to examine the impact of military expenditure on Nigeria's economy through oil revenue. The OLS result revealed that defense spending is a significant factor determining economic growth in Nigeria as the finding of the analysis indicated a positive relationship between military expenditure and economic growth which is significant at 5% critical level. This relationship, which conforms to a priori expectation, implies that the more the Nigerian government spends on its military sector, the more economic growth is influenced in the economy. However, analysis of the result also revealed that military expenditure is insignificantly and negatively related with economic growth when captured via oil revenue using an interactive term which is the product of military expenditure and oil revenue. Consequently, it can be concluded that military expenditure exerts positive impact on Nigeria's economy but its role via oil sector is negatively insignificant using joint interactive term. Therefore, this study recommended military expenditure as one of the factors Nigerian government should employ in influencing her economic growth.

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Psychological Description of Serial Killers

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ABSTRACT: Serial crimes have always had a strong impact on society and added more complexity to the legal investigative systems. Beyond that negative impact, history has documented with fascination those cases and the name of some killers remain in the memory of society and law with strong reverberation. Maybe an even more complexity is added in these cases, to the psychological and psychiatric examination of the offender, starting from the psychological autopsy, profiling of the killer and the actual examination of the guilty. Psycho-analysis in these cases follows the legal investigation closely as it starts from the first details of the case, the study of the biography and forensic evaluation of the victim, analysis of the operational pattern, estimations of possible motivation of the crimes and finally releasing a profile for the possible murderer. As complex as a serial murder can look and as hard as the investigation may go, psychological profiling and analysis can bring one of the best chances of prevention, if done in the most efficient and correct way. As such, this paper proposes a review of psychological and forensic concepts about different aspects of serial murders and murderers.

KEYWORDS: serial, killers, psychology, forensic, murder

Introduction

Psychology and psychiatry have brought a broad and profound comprehension about criminal offense patterns and have aided the legal investigative system throughout history, developing as individual and self-sustained scientific domains at the border of social sciences, medicine and law. Forensic psychologic and psychiatric expertise are nowhere more challenged than in the cases of serial killers. Usually, an antisocial act is analyzed through the perspective of the presence of critical judgment and responsibility capacities as the corrective measures will depend on the criminal's ability of understanding their own actions, the consequences of those acts and the importance of the steps he will need to fulfill for an efficient social reintegration afterward. The unique features about serial killers consist in the complexity of the investigative elements that follows the forensic assessment, the psychological characteristics of the killer that bounce between psychopathology and psycho-emotional symptomatology and building the personality and entering the mind of a murderer without knowing anything about him (Marin 2015, 43).

The first stage of analyzing the personality of a serial killer is the assessment of the case, of the victim, of the details from the crime scene and building the general psychological image of a person capable of killing in that specific way by drawing out the unique features of the victim and crime mode. The first question of psychological investigation is the assessment of the organizational typology of the crime scene and killer. One important feature is the victim and crime scene aspect, as they are the first elements to talk about the way a murderer thinks. The psychopath is usually well organized with clean crime scene, certain modalities of killing, with no additional or unneeded lesions, with certain objects placed as statements of his message or emotional involvement or the scene chosen to transmit a certain characteristic about himself. This is the reflexion of a planned murder which means the killer has critical judgment, intelligence and patience and he often does not leave much clues as he is aware of the severity of the act he commits and the importance of not being caught. The psychotic is usually not organized at all and the characteristic of a psychopathologic murder is usually the disorder of the scene and the aspect of the victim that add up to the image of impulsive, not planned, chaotic act with no emotional control. Crime scenes are usually exceptionally bloody and victims present much more violent aggression marks and deadly injuries are extreme, targeting the head or the heart, which reflects the direct intention but without clean and planned motivation. The problem about the last type of murders is that the lack of control of impulses can belong in the same time to a person with

psychiatric condition and lack of discernment, in a period of crisis (acute psychotic state) or it can also belong to somebody emotionally or intimately involved with the victim, in which case, there are is no doubt of the presence of the discernment. Also, in some individuals, a first emotional crime is the first step and motivation in becoming a serial killer (Knight 2006, 1189-1206).

The second important feature within psychological investigation resides in the operational model of the killer which usually evolves as the crimes proceed and new elements may appear and the quality of the existing characteristics becomes more sophisticated but also, as the crimes proceed, the ego of the offender becomes more prominent and details about him or emotional details he wants to underline will appear more consistent. This element reflects directly the killer's intelligence but also his psycho-emotional disruptions. The psychological imbalance becomes more and more contrasting. In the first place, the fact that he isn't caught feeds his ego and motivates him into developing more elaborated criminal scenarios, defying the police and building more challenges for them in order to prevent future crimes. On the other hand, frustration and emotional disruption or absence of feelings still pushes him into the search for new victims that can satisfy and balance his inner self. In other words, the imbalance creates more imbalances, and some satisfaction don't completely fill the disruptions but only creates new ones (Keppel & Birnes 2003).

The third constitutive element of the killer's profile is the imprint of the murderer's personality and emotional state. Serial murders are characterized by the uniqueness of the crime scene which is a personal choice of the killer and by the victim bodies which tend to be displayed in certain ways that de-personalizes them as they become a statement for the killer's identity. These elements will form the killer's signature but tis signature evolve and change in the investigation course in order to confuse the inquiry or because the killer's psycho-emotional level is changing (Pârvulescu, Butoi & Ștefan 2010, 111).

The personality of a serial killer

From a psychological point of view, the personality system is a complex interconnection of cognitive features, emotional elements, personal familial history and its imprint on the individual identity, social environment influences and intelligence structure. Personality is a psychological property of self that integrates an individual into his environment by projecting his character, attitude, impulses, behavior, emotions and thinking pattern in the outer world. Basically, the biological integrity and the brain function level are the bases for upcoming cognitive and emotional filters that will form a person's bio-psycho-social balance and construct his personality. It is a dynamic structure and never a passive, static characteristic. This is the foundation of the behavior sciences, including forensic psychiatry and psychology. In this matter there are 2 plans of assessment of personality, especially in the case of serial killers and those are the personality components and personality types each being formed on biologic, psychologic and social directions (Knight 2007, 21-35).

Biological features of the personality can be viewed as native characteristics or unchangeable legacies of the body and especially cerebral structure and functioning and thinking patterns. Many observational studies have revealed that deficits of brain structure and neuro-transmitting factors can alter the way a person acts as response to environmental factors and this is a hereditary feature or it can also be a developing issue during fetal stages or before pubertal age. Specifically, bypassing mechanism between amygdala and cortical regions of the brain are revealed to be causing behavioral defects such as impaired emotional responses to stress and impulsive activity. Cortical regions, especially the prefrontal area, are the center of cognitive filters for critical judgement, being activated by the balance of ventral striatum – the center that controls and backs-down the impulses to act in a certain direction and the amygdala, which activates mobilization based on emotional process, especially fear and anxiety (Von Borries, Volman, de Bruijn, Bulten, Verkes & Roelofs 2012, 761-766). The bypassing of avoidance circuits is usually pattern of brain function within individuals with antisocial behavior. Another

interesting biological feature resides in the cerebral function of the temporo-parietal junction which apparently is a center of pain management but also is the compassion center as it manages the pain of others through the ocular nerve and reflects it as it is a self-pain. This is one of the centers that have important matters in the social integration, moral delimitations and emotional involvement. Recent functional MRI studies have shown that adolescents with callous unemotional and even adults with affective impairment or psychopathic behavior have no activation of this center during visualization of intentional pain inflicted on others. This could be an evidence of a neurobiological base for the personality disorder and also a way to manage these cases in order to prevent a future antisocial behavior (Yang, Raine, Lencz, Bihrle, LaCasse & Colletti 2005, 1103-1108).

The psychological component of the personality is something more complex as neurobiological bases are just part of the dynamic structure of a disrupted personality. The psychology and the biology of one self are a dynamic couple of features with contradictory and synergic functions. It is the attitude – aptitude mechanism that reflect that bio-psychological component of personality which will define that individual's prone to positive or negative social relationship status. For example, a native graphic talent will not make a person prone to involvement into money counterfeiting if his psychological and emotional status is not prone to antisocial behavior. So biological aptitudes are positive or negative tools in the hands of the psychological attitude of the person. Also, physical deficits are usually compensated by compensatory behaviors and those behaviors are very easily transitioned to deviant behaviors (Allely, Minnis, Thompson, Wilson & Gillberg 2014, 288-301).

Social components of the personality represent the effects of social and cultural agents on the psychological and emotional filters of the self, building psychological structures that evolve into motivational forces that shape the behavior patterns. Psychological components develop proportionally to the social, cultural and familial influences, building one's character. Although personality is a dynamic structure, the character remains somewhat stable as all outer influences build up to an inner model of emotional and thinking features. Deviant personalities can be seen as imbalanced characters with negative attitude towards others and to self and aptitude developments inclined to antisocial goals with poor emotional involvement (Pădureanu 2017).

Psychological description of serial killers

Disrupted connections between emotional filters and action control is one of the most related feature to serial killers. Usually, it is about inconsistent affective levels and extreme oscillations between emotional states. This is often seen in disharmonic personality disorders which is characterized by discontinuous reactions to outer stimuli because of the traumatized cognitive and emotional structure with low affective self-control, poor development of superior feelings, especially moral ones and a lack of realistic evaluation in report to self and others (Butoi 2004, 385-389).

Social inadaptation represents a characteristic of extreme deviant behaviors. The social un-adapted have roots in a disrupted familial and financial influence with low educational levels. In some cases, the first active symptom of social inadaptation is exactly the criminal offence as many of these individuals blame their difficulties on society or try to repair their problems by eliminating reflections of their trauma from the environment (Marono, Reid, Yaksic & Keatley 2020, 126-137).

The most spectacular characteristic of serial killers consists in their duplicitous behavior capacity. Being extremely conscient of the severity of his intentions he is able to plan and calculate every step in order to hide his activity and his true nature which himself often despises. He needs an alter-ego that rise to his desires an expectation so he will make all the efforts necessary in order to become a social, honest and morally preoccupied person, the perfect friend and community member, basically he will be the last person anyone would point to in a case of crime. Also, there is a contrast between the 2 sides of a killer because his desires push him and

isolates him so much from the society that he needs to get as closer as he can to the community and group acceptance as he can, so, he becomes split between 2 lives and 2 identities (Duță 2014, 47-62)

Affective immaturity is often another characteristic within serial killer and it resides in a cleavage within the cognitive and affective processes with a stronger proportion of the last. Emotional lack of maturity leads to psychological stiffness and disrupted reactions in order to obtain pleasure in a non-realistic mode. He is capable of intense reactions as a response to lowest level of affective stimuli in order to obtain sometimes, insignificant satisfactions. He is often incapable of self-criticism, of realistic analysis and he is inconsistent and ignorant about important problems (Keatley, Golightly, Shephard, Yaksic & Reid 2021, 2906-2928).

Inferiority complexes tend to appear in many of the cases of psychopathic serial killers. The interesting aspect is the fact that not always the individual has real physical deficit that becomes a reason for inferiority complexes but in many occasions, there are imaginary psychological deficits that the subject has been forced to believe in by the social environment or by family members in his childhood and adolescence stages (parent despise and disapproval by the social group). Inferior self-reflection in relationship with the environment and reported to himself, transition to frustration so, psychological filters and barriers activate defect emotional states in which the individual feel like he is deprived of certain rights and satisfactions that he feels he is entitled to and he often blames other for being the obstacle between him and his goals. Frustration is being sensed at the cognitive-emotional filtering line, acting as a strong excitatory factor and impacting the affective activity over the cognitive activity. Interestingly, the more the individual contain his frustration and postpone his satisfaction gaining, the more explosive will finally their action be. In the crisis moment, the lack of self-control can reflect in a chaotic, inconsistent extremely violent act (Miller 2014).

The inferior complex of the criminal is usually structured on 4 levels – egocentrism, lability, aggression and affective indifference. Egocentrism is the tendency of one individual to report every aspect of the outer and inner environment to himself, him being the center of al situations and possibilities. The interpretative level of such persons makes them think they are the center of everyone's attention, even strangers. The egocentric person is not able to see beyond his own desires and needs and he can become dominant and despotic in order to obtain what he wants. He is the always right and he feels he is always persecuted, he underestimates his defects and overestimates his qualities and when he becomes jealous or envious, he attacks with all strength. Lability represents the oscillation of emotional levels. The labile person is highly suggestible and easily influenced and responds with impaired emotional acts which makes him very unpredictable. This is a characteristic of criminals that are unable to inhibit their instinct and desires, not even under the probability of danger or legal sanctions. Aggression is a form of manifestation that appears when the individual cannot fulfil his intentions and desires, causing destructive behavior as a result of poor impulse control in the cases of serial killer aggression becomes a constant behavior, a part of the individual's personality, almost like a professional feature, as it manifests constant and conscious. Affective flattening or indifference is strongly related to egocentrism and it comes in parallel with poor moral principles. The phenomenon represents the individual's incapacity to understand the pain and needs of others and it manifests as a disproportional reaction to other people pain and even satisfactory response to such stimuli (Malatesti & McMillan (Eds.) 2010). These elements tend to appear even at young ages and recent studies have demonstrated that there is neurobiological alteration in the brain mechanisms that could lead to these clinical features. The altered behavior that leads to extreme aggression and sadism in some crimes could be explained by the fact that the lack of emotional sensitivity leads to frustration which lead to experimenting situations that bring some affective arousal. O the other hand, there are cases in which the individual has developed a protective mechanism through against abuse and trauma during childhood by banning emotions and blocking emotional filters. In this case, the person is not entirely aware of his affective inhibition and this could be another explanation for the sadistic and extremely violent crimes. Also, he is unable to understand the

guilt as a negative feeling about himself and a compassionate thought about the victim so is does not understand entirely the concept of punishment and the important consequences of the act. Still, the psychiatric expertise course remains to the hypothesis that he is responsible for his actions and he does not lack critical judgement, as he has neuro-psychological function integrity so emotional processes cannot be taken into consideration. More neurobiological studies are required in order to demonstrate an organic fundament of the psychopathic behavior and with them, there could be possibilities for clinical management (Wilson & Seaman 2007).

Characteristics of organized serial killer

Organized and planned criminal activity is a reflection of a premeditated act which means that the offender is someone with a strong critical judgement. In most cases, the offender is someone with a high IQ score that has great adaptative skills and improvisation talent and high social skills. He manifests positively inside social groups and he is a popular person. He often manifests defiant attitudes and he can easily get involved in professional and moral conflicts. He does not manifest inferiority complexes and he over-estimates his intelligence, defying the law and the investigative capacities. Intimately he is inconsistent and he is never strongly emotional involved in relationships. Sexually, he is dominant and even sadistic or masochistic but never entirely satisfied which easily drives him to extreme manifestations without caring for the partner's well-being. He is always capable of perfecting with way pf operation and the crime scene has almost in every case, a certain logic, a rehearsed structure that is meant to bring him satisfaction. The tools used to commit the crime are never random, but they are personal and almost never left at the crime scene. He prefers to depersonalize the victim, transforming her into an object of his pleasure and a statement for the witnesses of the scene. He follows the mass media in order to feed his ego with the effect of the crime and he sometimes adds personal notes in the scene or sends them to the police or media in order to bring more fame to the case. For sexual motivated killers, torturing the victim in a certain direction brings them the feeling of power which they usually are not capable of feeling or the pain they inflict is a way for them to overcome their sexual frustrations. Also, the lack of emotional sensitivity is a motivation for him to bring more pain to the victim in order for them to reach a certain emotional state. Unfortunately, the recent crime is never enough and they usually already plan the next one by assessing what they think that was missing and what they can perfect for a more satisfactory result. The most important aspect is the fact that the organized offenders are representants of psychopathic personality and they are completely aware of the damage they cause but their instinctual response is more powerful than the cognitive one as they often cannot control the urges and the need to kill (Johnson & Becker 1997, 335-348).

Characteristics of disorganized serial killer

In contrast with organized serial killers, the inconsistent one is usually a person with psychopathologic disorders which makes them more spontaneous, rough and unpredictable. He is usually not a bright person and his adaptative skills inside society, professional field and family have deficits. He usually lives with an older familial who takes care of him, he is unable to perform efficiently at the job, he is socially un-adapted, introverted and finds comfort in isolation. He is incapable of empathy and emotional exteriorization which makes him low-responsive to psychotherapy but he wears an inner psychological tension based on frustrations. He has low self-esteem because of physical handicaps or because of psychological trauma inside the family and as such, he blames the society and refuses to insert himself. The crime scene is usually chaotic as he is not capable of premeditating the act. His crimes are spontaneous, the victims being chosen in the moment of high psycho-emotional lability and the crime scene lack coherence and logic. As well as the organized typology, the psychotic offender likes to depersonalize his victim but, in these cases, he performs mutilations on sexual areas or the facial area in order to deny the horror

he caused and lower his blame and not as a statement about himself. He doesn't have personal weapons but he randomly chooses one and he often leaves it at the scene which he also destroys and takes some bizarre objects, without apparent sense, in order to remind him of his act. The place of the murder coincides with the scene of crime finding which differs from the organized murderer who often prefers to change the location of the body, in order to make the statement more spectacular. Sexual aggression in these cases manifest after the death of the victim which comes by repeated and uneven blows in vital regions. The disorganized killer is never interested in feeding his egocentrism with popularity of the crime as he lacks the self-esteem level to think in that way. Discernment in these cases can be very debatable. If a psychopath is clearly an intelligent, cognitive capable person, the disorganized killer could be an impulsive offender with cognitive capacities still present but also, he can be a psychiatric patient or a limited intellect, in which case, IQ and psychometric evaluation would decide over his legal responsibility (Ürmösné 2018, 1-12).

Male versus female killers

It a known fact that serial killers are statistically more men than females. The main characteristic of the serial killers, the disruptive emotional state, is not something to characterize women but can be a psychological trait of males. Women are known for aggressive manifestation in extreme heightened emotional states and the victim is almost always someone from the intimate close group. Searching for strangers is not something women usually do as they need to affectively connect even in a negative way. Some studies suggest that this difference between criminal acts in males and females represents a remanence of pre-evolutive instinctual characteristics of the social models. Men had the role of the hunter in order to sustain the family and women were always close to the house, keeping it organized and affectively merged. This is one of the explanations for the instinctual psychological aspects of the two genres when involved in criminal activity (Harrison, Hughes & Gott 2019, 295).

Conclusions

Aggression is a natural characteristic of every individual that can evolve into something instinctual and predominant, replacing emotional mechanisms that motivates activity of the self or it can develop cognitive control and emotional coating with strong connectivity in relationship with other human being. External factors are proportionally combined with biological features and psychological aspects when forming one's personality and disruptions inside that bio-psycho-social balance will transition the identity to an antisocial behavioral model.

Serial killer personality is a complex structure of emotional imbalance, social and educational influences and neurobiological mechanisms. These structures evolve into organized and disorganized antisocial behavioral patterns, proportional with the intelligence level and educational influence. The first image of a serial killer to be described is the organization of his crime scene which are the first clues about his profile. Psychological and psychiatric expertise must accompany the legal investigation step by step in order to efficiently asses and possibly prevent the criminal act.

Aggression must be understood as a physical and psychological act as well. It is a form of personal expression of the external reality through a contradictory state of intentions and materialization of the desired act. Murder can be viewed as a product of irrational elements but it can also be a cognitive act. The level of emotional and cognitive involvement into a criminal act is the key for identification and preventive measures during a legal investigation. The way the killer operates and understands the antisocial act he commits, determines the chances for his social rehabilitation. As such, a multiple crime scene investigation with one apparent author and little to no clues, reflect a planned and strong intention which means, chances of reiteration are high. A chaotic crime scene filled with clues and clumsy, indifferent operational mode reflect an

impulsive act with little cognitive involvement which could reflect the action of a psychotic person or someone who would not repeat the act again. Still, commentaries and analysis of psychological features of serial killers are most variable and need adaptation to each case. General features can only be discussed in scientific community in a pedagogical manner but in real situations, the complexity of the psychological profiling and legal investigation are proportional to the spectacular impact on both scientific world and civil observers.

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The Forensic Expertise as a Probative Procedure Used in the Criminal Proceedings in Romania

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ABSTRACT: The article presents and analyzes aspects related to the disposition and performance of the forensic expertises in accordance with the criminal procedural legislation in Romania. The article presents and analyzes aspects of forensic tactics related to the disposition and performance of the forensic expertise in accordance with the criminal procedural legislation in Romania.

KEYWORDS: forensic expertise, forensic tactics, Romanian criminal procedure code, criminal proceedings

Introduction

The forensic expertise is part of the broader category of forensic expertise which is a valuable evidentiary procedure, through which, based on research based on scientific data and methods, "the expert brings to the attention of the judiciary scientifically reasoned conclusions about specialized knowledge is required" (Mihuleac 1971, 20).

The forensic expertise has been defined in the literature as "the result of scientific research, of factual circumstances, performed at the request of judicial bodies, by one or more specialists, whose scientific training and experience specific to each specialty allows them to report detail the facts in that field and process them in order to make them accessible to the judiciary activity" (Stancu 2011, 83).

Carrying out the forensic expertise is in principle optional, the judicial bodies approving it only if it is pertinent, conclusive and useful to the criminal case, it being disposed, according to the provisions of the Article 172 (1) of the Romanian Criminal Procedure Code, when for the ascertainment, clarification or evaluation of certain facts or circumstances that are important for finding out the truth in question, the opinion of an expert is also necessary.

The expertise is ordered under the conditions of Article 100 of the Romanian Criminal Procedure Code regarding the administration of evidence, upon request or *ex officio*, by the criminal investigation body, by reasoned ordinance, and during the trial it is ordered by the court, by reasoned decision (Article 172 para. 2 of the Romanian Criminal Procedure Code).

The request for the forensic expertise must be made in writing, indicating the facts and circumstances subject to evaluation and the objectives to be clarified by the expert. The forensic expertise can be performed by official experts from laboratories or specialized institutions, or by independent experts authorized from the country or from abroad, in accordance with the law (Article 172 para. 4 of the Romanian Criminal Procedure Code).

The ordonnance of the criminal investigation body or the order of the court ordering the forensic expertise must indicate the facts or circumstances that the expert must ascertain, clarify and evaluate, the objectives to which he must respond, the term in which the expertise must be performed, as well as the institution or the designated experts (Moise and Stancu 2020, 310).

In strictly specialized fields, if for the understanding of the evidence certain specific knowledge or other such knowledge is necessary, the court or the criminal investigation body may request the opinion of some specialists who function within the judicial bodies or outside them. The provisions relating to the hearing of the witness shall apply accordingly.

We point out that authorized experts may be involved in carrying out the forensic expertise, appointed at the request of the parties or the main procedural subjects. The expert is appointed by the ordonnance of the criminal investigation body or by the court order. The criminal investigation body or the court appoints by the ordonnance, respectively by the court

order, usually only one expert, except for the situations in which, due to the complexity of the forensic expertise, specialized knowledge from distinct disciplines is required, situation in which it appoints two or more experts.

When the forensic expertise is to be performed by a specialized institute or laboratory, the appointment of one or more experts is made by this institution, according to the law.

The expert, the institute or the specialized laboratory, at the request of the expert, may request, when it deems necessary, the participation of specialists from other institutions or their opinion, and the names of experts appointed by the institute or specialized laboratory shall be communicated to the judicial body that ordered the forensic expertise.

According to the provisions of the Article 175 (1) of the Romanian Criminal Procedure Code, the expert has the right to refuse to carry out the expertise for the same reasons for which the witness may refuse to testify. Also, the expert has the right to get acquainted with the material of the file necessary for the performance of the expertise and may request clarifications from the judicial body that ordered the performance of the expertise regarding certain facts or circumstances of the case to be assessed.

At the same time, the forensic expert may request clarifications from the parties and the main procedural subjects, with the consent and under the conditions established by the judicial bodies. The expert is entitled to a fee for the activity submitted for the performance of the expertise, for the expenses that he should bear or has incurred for the performance of the expertise (Article 175 para. 5 of the Romanian Criminal Procedure Code).

The amount of the fee is determined by the judicial bodies depending on the nature and complexity of the case and the expenses incurred or to be borne by the expert. If the forensic expertise is performed by the institute or the specialized laboratory, the cost of the expertise is established under the conditions provided by the special law. We emphasize the fact that the forensic expert can also benefit from protection measures, under the conditions provided by the Article 125 of the Romanian Criminal Procedure Code, which refers to the protection of threatened witnesses.

The expert has the obligation to appear before the criminal investigation bodies or the court whenever he is summoned and to draw up his expert report in compliance with the deadline established in the ordonnance of the criminal investigation body or at the court order. The deadline in the ordonnance or court order may be extended, at the request of the expert, for good reasons, without the total extension granted being more than 6 months (Article 175 para. 7 of the Romanian Criminal Procedure Code).

The delay or unjustified refusal to carry out the forensic expertise entails the application of a judicial fine, as well as the civil liability of the expert or of the institution designated to carry it out for the damages produced.

The expert may be replaced if he refuses or, unjustifiably, does not complete the expert report by the deadline. The replacement is ordered by ordinance by the criminal investigation body or by conclusion by the court, after summoning the expert and communicated to the association or professional body to which he belongs. The expert is also replaced when his statement of abstention or request for recusal is admitted or if he is objectively unable to perform or complete the forensic expertise.

The criminal investigation body or the court, when ordering the performance of an expertise, fixes a term to which the parties, the main procedural subjects, as well as the expert are summoned, if he has been appointed (Article 177 para. 1 of the Romanian Criminal Procedure Code).

At the set deadline, the prosecutor, the parties, the main procedural subjects and the expert shall be informed of the object of the forensic expertise and the questions to which the expert must answer and shall be informed that they have the right to comment on these questions and may ask modifying or supplementing them. Also, as the case may be, the objects to be analyzed are indicated to the forensic expert (Article 177 para. 2 of the Romanian Criminal Procedure Code).

The expert is informed that he has the obligation to analyze the object of the expertise, to indicate exactly any observation or finding and to express an impartial opinion on the assessed facts or circumstances, in accordance with the rules of professional expertise and science (Moise and Stancu 2020, 311).

The parties and the main procedural subjects are informed that they have the right to request the appointment of a forensic expert recommended by each of them, who will participate in the performance of the forensic expertise. After examining the objections and requests made by the parties, the main procedural subjects and the forensic expert, the criminal investigation body or the court shall inform the expert of the term in which the forensic expertise is to be performed, at the same time notifying him if the parties or the main procedural subjects are to participate (Article 177 para. 4 and para. 5 of the Romanian Criminal Procedure Code).

After performing the forensic expertise, the findings, clarifications, evaluations and opinion of the forensic expert are recorded in a report, which has the value of a means of proof in the criminal proceedings. When there are several experts, a single forensic expertise report is drawn up, and the separate opinions are motivated in the same forensic report. The forensic expertise report is submitted to the judicial body that ordered the forensic expertise.

Forensic tactics rules applied in the disposition and performance of the forensic expertises in the criminal proceedings

The most important tactical rules applied in the disposition of the forensic expertises are the following (Moise and Stancu 2020, 312-313): the opportunity of the forensic expertise; the correct establishment of the object of the forensic expertise; the clear wording of the questions addressed to the expert; ensuring the quality of the materials sent for forensic expertise.

The forensic expertise goes through three main stages or moments, consisting in knowing the object and materials of the forensic expertise, in the separate examination of each category of materials and in comparing the characteristic elements, in order to identify (Ionescu and Sandu 1990, 41-42).

Knowing the object and materials of the forensic expertise is the first stage in which the specialist proceeds to study the disposition of the work, as well as the research materials, in order to establish the concordance between the indications and data contained in the ordonnance or the court order and the objects received (Moise and Stancu 2020, 314).

The separate examination considers both the traces or objects in dispute and the comparison models, the expert being interested in capturing sufficient characteristics on the basis of which to establish the identity or non-identity of the person or object included in the research scope.

The comparative examination aims at comparing the characteristics, reflected or contained after the high scene from the crime scene, with the characteristics of the comparison models created experimentally with the objects included in the research scope (Buzatu 2013, 125). We specify that the procedures used in the comparative examination are confrontation, juxtaposition and overlap.

According to the provisions of Article 178 (4) of the Romanian Criminal Procedure Code, the forensic expertise report shall include the following parts: the introductory part, which shows the judicial body that ordered the forensic expertise, the date when it was ordered, the name and surname of the expert, the objectives to be met by the expert, the date on which it was performed, the material on which the expertise was performed, proof of knowledge of the parties, if they participated in it and gave explanations during the expertise, the date of preparation of the forensic expertise report; the exposition part describing the expertise operations, methods, programs and equipment used; the part of the conclusions, which responds to the objectives set by the judicial bodies, as well as any other clarifications and findings resulting from the performance of the forensic expertise, in connection with the objectives of the forensic expertise.

Depending on the results of the examination process, the conclusions may be certain, presumptive or impossible to solve the problem (Ciopraga and Iacobuță 1997, 358). During the criminal investigation phase or the trial phase, the expert may be heard by the criminal investigation body or the court, at the request of the prosecutor, the parties the main procedural subjects or ex officio, if the judicial body considers that the hearing is necessary to clarify the expert's findings or conclusions. The hearing of the expert is carried out according to the provisions regarding the hearing of witnesses, provided by the Romanian Criminal Procedure Code.

When the criminal investigation body or the court finds, upon request or ex officio, that the expertise is not complete, and this deficiency cannot be filled by hearing the forensic expert, it will be ordered to carry out a supplement of expertise by the same forensic expert. When it is not possible to appoint the same expert, the judicial bodies will order the performance of another forensic expertise by another forensic expert.

According to the provisions of Article 181 (1) of the Romanian Criminal Procedure Code, the criminal investigation body or the court orders a new forensic expertise when the conclusions of the forensic expertise report are unclear or contradictory or there are contradictions between the content and the conclusions of the forensic expertise report, and these deficiencies cannot be removed by hearing the expert.

Aspects regarding the development of the forensic expertises

According to the provisions of the Romanian Criminal Procedure Code, the forensic expertise is performed by forensic laboratories or any other specialized institute. The forensic expert or specialist must not forget that, no matter how competent he is through the multitude of his specialized knowledge, his act remains limited, and the verification of the expertise by the judge is not a test of distrust, but an additional proof of objectivity.

Currently, the National Institute of Forensic Expertise is subordinated to the Ministry of Justice of Romania, and the inter-county laboratories of forensic expertise are subordinated to this institute. The National Institute of Forensics within the General Inspectorate of the Romanian Police, as well as the forensic laboratories from the territorial units of the Police, operate in the system of the Ministry of Internal Affairs of Romania.

During the forensic expertise, the expert must comply with several general and special rules of ethics. Thus, the forensic expert having to (Stancu 2011, 85): to carry out the entire forensic expertise based on a thematic plan, representing a minimum point; to examine all materials submitted to the forensic expertise, to use all modern means of scientific research, to explain in detail its findings and to give clear and concise answers to all questions; to keep secret the works and their findings that he makes, this secret being absolutely *erga omnes* for any kind of work and for anyone, except the judicial body that ordered the forensic expertise; not make any changes to the objects or traces in dispute, as they are likely to alter their probative value; **t**o study either directly or with the aid of the devices, the general and individual characteristics of the trace or of the object in dispute.

Moreover, in order to establish the authenticity or to identify the original person or object, the forensic expert must (Stancu 2011, 85-86): learn how to trace or carry the object in its visual field and how to look at; to acquire the ability to observe and examine the evidence, with total objectivity and increased attention, without being influenced by prejudgments or distracted by non-essential elements; to make the examination carefully; to know the atmospheric conditions in which the trace was created, the time elapsed since the creation of the trace; not to answer to legal problems, but only to scientific ones; not to assume the duties of a criminal investigation or prosecution body and to reject any delegation to that effect; in cases where the forensics experts do not have the competence to carry out the tasks received or if they do not have access to the necessary devices or equipment, they will decline their tasks, to a competent forensic laboratory.

During the forensic examinations, some errors may occur that may be due to the following: the lack of thorough knowledge of the forensic expert in the forensics field and the methods of expertise he uses; the application of the technique not as a means of scientific research, but as a goal, without being permanently subject to the critical spirit of the creative thinking of the forensic expert; the participation of the forensic expert in some acts of criminal investigation that may influence him in formulating the conclusions; overcoming professional competence or trying to solve legal issues through the forensic expertise.

The most common errors that can appear in the forensic expertise are the following (Stancu, 2011, 86-89): errors caused by improper picking and packaging of traces or criminal instruments; errors produced by not examining the evidence under the same conditions, it is known that many forensic expertises use a number of technical means from a wide range ranging from electron microscopes (transmission, scanning) nuclear reactors, particle accelerators, computer, lasers, and other instruments of measurement, comparison and control, these technical means having a high degree of improvement, so that both the evidence in dispute (traces of the crime) and the comparison models are examined (Buquet 2011, 132-133); errors produced by not examining the original - non-compliance with one of the deontological norms, according to which the forensic expert is obliged to perform the examination only after the original of the trace or evidence in dispute; errors produced by comparing the trace with the trace creator object; errors caused by not using all means and methods of forensic expertise; errors produced in the process of finding and interpreting the identifying characteristics; errors caused by improper assessment of insignificant details; measurement or calculation errors, in many of the forensic examinations it is necessary to make measurements and calculations in order to make the most accurate findings in order to compare the evidence in dispute and those created experimentally to form a fair conclusion; the logic errors, such as incorrect appreciation of deductions, the material errors, such as misrepresentation of facts and the verbal or written errors, which refers to the misuse of the terms; errors produced by subjective assessments; errors produced by not performing experiments errors produced by the examination of a document or a voice in foreign languages, the forensic expert being difficult to perform a work to identify the voice and speech in a language, other than the one spoken by him; errors caused by not performing experiments, which is likely to make it impossible for the expert to draw an exact conclusion and can sometimes lead to the installation of a horror; in the latter case, the error may occur when the expert performs the required experiment, but does not follow the principle that the same causes produce the same effects under the same conditions (Palmiotto 1994, 175).

Conclusions

The forensic expertise brings a very important contribution to achieving the purpose of the criminal process, finding out the truth and prosecuting the offender.

The forensic expertises have the object set by the judicial bodies and constitute activities of research and scientific interpretation of traces and material means of evidence, which involve the use of common methods, procedures, technical means and working techniques, in order to identify persons and objects in certain relationships with the crime.

The forensic expertise can be ordered both after the beginning of the procedural phase of the criminal prosecution, after the initiation of the criminal action and in the trial phase of the criminal process. We emphasize that the object of the forensic expertise is ample, consisting in a detailed investigation of the specialized problem submitted to the solution, the forensic expert expressing a point of view in the respective issue.

The interpretation and capitalization of the conclusions of the forensic expertise report marks the moment of appreciation and weighing of the evidences highlighted through scientific examinations.

Among the conclusions of the forensic expertise reports, the most valuable are the conclusions of a certainty whose interpretation does not raise particular problems, being frequent the cases in which the forensic expertise is the only way to bring to light the evidence necessary to establish the existence or non-existence of a crime and the identification of its author.

Probability conclusions have a lower weight in the overall results of the forensic expertise. Opinions have been expressed on these conclusions for and against their usefulness or admissibility, both in the speciality literature and in practice, some experts even avoiding formulating them.

We are of the opinion that the conclusions of the impossibility of solving the problem, contrary to appearances, require the same attention in interpretation, especially if they will be taken into account in all the existing evidence in question.

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Self-defense and Its Limits in Romanian Legislation

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ABSTRACT: From its beginnings, the human being has known the phenomenon of aggression, especially among members of the species, against the background of the ease with which certain primary needs could be met. This led to the need for a tailored response against constant attackers who threatened the proper conduct of the individual's life, which is why these defense mechanisms were coded in the genetic structure and passed down from generation to parent. With the emergence and development of human societies, as social roles became more hierarchical, tribal leaders were forced to find ways to control human impulses. Thus, during the evolution of the human species, legal norms have been developed to regulate social relations in ways that ensure peace, collaboration and mutual aid between citizens. However, due to the longtime of individual human existence compared to the new form of social organization, these animal instincts could not be completely eliminated, which is why the state offers citizens the opportunity to act with some degree of aggression. The article aims to analyze in detail the factors that determined the need for the Romanian state to allow aggressive behavior in the form of self-defense in response to existing social dangers and how this permission is legislated in legal norms belonging to the Romanian Criminal Code.

KEYWORDS: history, aggression, self-defense, overcoming self-defense, excess, psychology, Romanian legislation, environmental factors

Development, structure and limits of self-defense

Since its inception, the human being has presented a series of natural needs, immediate and particularly important for survival, such as food, shelter, reproduction and comfort. These aspects are called in psychology as primary needs, and their dissatisfaction leads to neural changes that affect the social behavior of people who feel that their normal functioning is threatened by external factors.

Once man perceives the external danger, a complex series of biological and psychomotor mechanisms for analyzing the situation are activated, and as a rule, those that come into operation immediately are closely related to aggression.

The need to develop aggressive defense systems against other members of the community that threatened human comfort was not felt from the beginning. This arose as a result of the technological evolution of the way of life in the community and the improvement of hunting tools, agricultural aid and others, which became tools of attack that offered considerable advantages to one person against another (Golu 2015, 58).

The phenomenon of aggression of one member of the community towards another has developed a lot in primitive human communities, due to the fact that it was much easier to obtain goods from hunting or those made from agriculture after the long process of planting and harvesting from a similar being in comparison to obtaining them through effective activities (Marr 2012, 61).

However, this anti-social behavior in the primitive period led to the decimation of entire human communities, which reduced the number of individuals who practiced hunting or agriculture naturally and, therefore, the possibilities of those who stole the goods obtained by them by using aggression. Thus, the need arose for a community social organization, around a single individual or a group of individuals to protect society, being the development of the first tribes, whose leaders were imposed on the one hand by the extreme aggressiveness they showed, and on the other hand, in some of them, through the wisdom and experience gained throughout life.

This is the period of emergence of a form of state in history that was the beginning of the social development of the human being based on rules of collaboration and rights and freedoms granted to each of the individuals in the relationships established with other community members.

In this way, the leader of the community was elected or imposed himself in front of its other members as the sole judge of the social and socio-economic relations established between the citizens of a human settlement, on the one hand, and on the other, of those established between citizens from distinct communities or those established between the rulers of different types of settlements.

Thus, a primitive form of domestic law and at the same time one of international law developed, the latter being constituted by certain acts of collaboration between tribes or by active measures of mutual aid and pooling of goods likely to ensure the good development of life, either by establishing non-attack pacts between settlements (Molcuț 2011, 21).

With regard to domestic law, it has been concluded that the head of the tribe or a very well-defined group of persons nominated by him are the only ones able to divide justice between individuals belonging to the community regardless of the nature of the object being tried.

As regards external law, it was reserved only for the tribal chief who could decide to exercise his right to judge in such matters either individually or by consulting with the sages of the community (Molcuț and Cernea 2006, 28).

However, the organized way in which society is known and today has happened in a very short time compared to the existence of the human being so that the mechanisms that facilitated aggression and that were genetically transmitted from generation to generation could not be changed, but only inhibited, they continuing to exist and produce their effects.

The development of societies in autonomous states and, implicitly, the emergence of a system of legal norms that strictly regulate human relations has made a particularly important contribution to the way in which individuals have adapted and learned to retain their violent beginnings.

Criminal law as the main branch of public law, consisting of all the legal norms governing public social relations between citizens and between them and the state was created as a superior mechanism for the administration of justice and the defense of citizens' rights and freedoms (Mitrache and Mitrache 2019, 18). Even so, certain aggressive actions could not be completely inhibited, so it was immediately felt the need to give citizens the opportunity to respond in case of danger from other individuals who threaten good social coexistence.

Specifically, the possibility of responding forcefully when danger is imminent is found today in the form of legal rules of criminal law governing self-defense in very specific situations, in proportion to the severity of the existing danger (Ristea 2020, 105).

Romanian legislation on self-defense

In Romania, self-defense is regulated in the Criminal Code – General Part, in situations where an external attack is directed against the life, property and values of oneself or others to the extent that the response to the attack is proportional to the magnitude of the danger threatening the social values (Boroi 2019, 173).

The need for an aggressive response from any individual who can help save the life, property or values of another person if they are affected stems from inequality of power between citizens, so that although a person may be unable to respond adequately can be helped by another able to respect the limits of self-defense (Neagu 2020, 131).

Self-defense can be assimilated, in the Romanian legislation, with the state of necessity or the fortuitous case, in which, the sacrifice of a good of a considerably lower value in order to save other goods or values that exceed in importance the characteristics of the sacrificed one, constitutes an exception from the criminal responsibility (Gheorghe and Ivan 2019, 136). Thus, the Romanian state is willing to sacrifice the property, bodily integrity or rights of a person whose aggressive behavior endangers the same social values of one or more innocent persons, in order to

fulfill the obligation of guarantor of civil rights and freedoms according to the Romanian Constitution (Deacon 2011, 113). However, self-defense has very well-established limits, so as not to exceed the level of aggression necessary to eliminate the danger, in which case a rescuer would become an aggressor himself injuring higher social values compared to those defended (Popa 2008, 86).

From this point of view, Criminal Law understands self-defense under two particularly important aspects to consider when taking into account the proportionality of the defense in relation to the corresponding attack. From the point of view of the conditions of the attack in order to require self-defense, it is expected that it will be material in the first place, then the existence of a direct form in which it is aimed at the defending person or another person, the unjustification of aggressive behavior being another particularly important feature and, finally, it must be immediate (Cioclei 2020, 183).

In these conditions, the material character of the attack is an element characterized by the fact that there can be no legitimate defense if the aggressor's aggression is not exercised against a person, his goods or social values, there is no real danger in this situation.

As regards the direct form in which aggressive conduct must be directed against a person, a good or a social value, this is explained by the fact that in the absence of a precise, well-defined objective and representing a social relationship, the conduct illegal would manifest its effects in a vacuum, not representing any social danger (Butoi 2019, 213).

Self-defense itself is an act of illegal conduct that justifies its necessity by defending social values in response with equal force and in the opposite direction to the aggression that leads to their destruction. It is therefore necessary to determine strictly the unfair nature of the attack against which the defense is directed.

The last constitutive element for an aggressive behavior to require an appropriate response is its immediate character, in the absence of which the defense loses its justification. This is because, once the act is committed, the element of danger that represents the way in which the illegal conduct occurred also disappears.

In terms of defense, Romanian legislation provides certain characteristics that lead to the conclusion of judging aggressive behavior in response to a danger that threatens the proper conduct of social relations. These characteristics are represented by the realization of a defense by an illicit deed, during which the specific aggressive behavior towards which it is directed to remove it is manifested, the need to adopt such a code in the absence of which the social values it defends would be harmed and the proportionality of the response with force to an aggressive act (Stănilă 2020, 156).

The importance of the defense by an act that, in turn, is unlawful results from the legitimacy that the respective answer must receive in order to be considered a necessary defense. In the absence of the unlawful nature of the defense, the person's conduct cannot be suspected of lack of legitimacy.

The temporal nature of the defense is also a very important element in determining legitimacy, as an aggressive response to the existence of a danger that threatens at least one social value or one that occurs after the act has been committed in full, when no longer there is the possibility of such a danger, it eliminates the justification of its manifestation. Also, aggressive conduct that aims to remove an evil that threatens one or more people, their property or any other social value, should be directed only against the person whose behavior is to be neutralized. Otherwise, the legitimate element of the response to the existing danger disappears.

The legitimacy of the defense is also given by the fact that the danger cannot be removed other than by responding with a certain force to the illegal behavior that determines the action. This element is of particular importance in determining the need for a response to illicit conduct.

The last element to be taken into account in establishing the legitimacy of the defense is the proportionality of the response to the attack that determines it. This is especially important because, in the absence of a proportionate response, a person who wants to remove a certain danger can cause another much greater one than if he had not acted at all.

However, in the moments when a response to an illegal conduct is necessary and occurs in self-defense, the only aspect not respected being that of the proportionality of the defense in relation to the attack that determined it, the Romanian legislation provides certain exceptions called excesses, taking into account the psychological impact that the danger exerted on the defender (Nour 2020, 120).

Conclusions

From the very beginning, the human being had to respond with an aggressive behavior towards all his fellow men who threatened to disturb his good life. With the organization of societies into tribes and the social hierarchy of their leaders, the mechanisms previously developed have undergone changes by inhibiting existing human impulses, prohibited by legal norms that strictly regulate social relations between people and states.

However, these beginnings could not be completely eliminated, as they are genetically coded and passed down from generation to generation, due to the longtime of separate human existence compared to the one in which societies developed.

In order to facilitate the elimination of the danger, the Romanian Criminal Code provides certain limits within which a person may respond with aggressive behavior against a danger that cannot be removed other than through illicit conduct and which comes from one or more persons.

In stating this limit called self-defense, the Romanian Criminal Code took into account a number of characteristics that must be met, both in relation to the danger to be eliminated and the response to be manifested for its removal.

However, there are situations in which these limits are violated by mistake, the psychological impact of the danger being far too great to allow accurate reporting to it. Under these conditions, the Romanian legislation also provides a degree of overcoming the legitimate defense, up to which a person can still be considered innocent.

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The Social Communication of Saint Basil

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ABSTRACT: It is well known that communication is a "social phenomenon, which involves an intention to send and receive a message" (Fârte 2004), in our case, the social communication to Saint Basil. The complexity of the social communication phenomenon is remarkable. It is a proof of human capacity to express their thoughts, ideas, and feelings of frustration, compassion, and struggle for social survival. With the help of words, man struggles every day, with the social problems he faces, with the depression generated by social problems, he transcends the difference of age, language, culture, color, religion and sex. The dimension of communication in social processes becomes "sine qua non" in our existence (Stoica-Marcu 2013, 128) a remarkable example over time is Basiliad. Saint Basil exhortations into practice the mercy of his sermons social facts confirming the strength of his Christian beliefs (Petcu 2009).

KEYWORDS: St. Basil the Great, Basiliad, social communication, social processes

Introduction

The research topic involves a rich literature, starting from the religious, continuing with the legal and ending with introspections on case studies, comparing the theological model proposed by St. Basil the Great with the secularized view of man. Therefore, the topic involves a multidisciplinary documentation. Beginning in the second half of the fourth century, the history of Christianity records the appearance of the three great Cappadocian Fathers: St. Basil the Great, his brother, St. Gregory of Nyssa, and their good friend, St. Gregory of Nazianzus. The most prestigious of them, Saint Basil the Great, was recognized by others as a common master, both during life and after death (Campenhausen 2005, 151).

Numerous sources have been sent to us regarding the biography of Saint Basil. In addition to his own writings, which include about 350 letters, we also have the eulogies composed by his brother, Gregory of Nyssa, and his friend, Gregory the Theologian, short notes that appear in the epistles and works of the two Gregory, such as and fragments dedicated to him by church historians: Jerome, Socrates, Sozomen, Theodoret and Philostrogius.

Saint Basil the Great was born in 330 (in the opinion of others 329), in Cappadocia, coming from a family famous for nobility, material and spiritual wealth. The basis of his education is the efforts made by his father, Basil, who was a professor of rhetoric at the Neocaesarea in Pontus, son of Saint Macrina the Elder (Coman 1999, 111; Rousseau 1994, 412; Smith 2003, 9-48; Jurgens 1970, 3). After studying at Caesarea in Cappadocia, Constantinople (c. 346-347) and Athens (from 350 to 355-356), mastering and deepening all that was best in pagan culture, he returned to his homeland in 356 and became a teacher of rhetoric.

Many fourth-century clerics, initially Christians, were trained in the schools of antiquity, where they learned dialectics and rhetoric. These arts were also taught by the great Christian catechetical schools of Alexandria and Antioch. Thus, many Christians also excelled in ancient wisdom. The Cappadocian Fathers also belong to this class. Because of these changes, the sermon acquired a much more artistic rhetorical form, also influenced by the Asian rhetorical style. It has become more elegant and systematic. Until the time of Saint Basil the Great, his rhetoric had crystallized directions and strengthened its position in all areas of social life. Rhetoric in the times we are referring to was not a simple literary habit, but much more; it was a way of life (Iorga 2009, 114). However, Saint Basil will soon leave his career as a teacher, in order to embrace the monastic life, but not before being baptized. He made a first division of his fortune to the poor.

In opinion of Liviu Petcu Archbishop Cappadocia practiced disinterested service of brotherly love, which fully confirms the correctness name like a patron of the poor peoples. The great hierarch understood the quintessence of Christian teaching, the fact that this teaching is summed up in love for God and for man. Saint Basil the Great knew how to weave in his soul, like no other, Christian love and mercy, sacrificing everything to the love of the neighbour in need and suffering (Petcu, 2009).

After his many pilgrimages around the world, the second division of his fortune takes place a little later. In 368, when the population of Cappadocia was going through a period of great famine, St. Basil admirably organized social assistance and distributed his wealth to the poor for the second time (Coman 1999, 112).

In the spring of 372, St. Basil expanded his social activity. His interest in the problems of the people was demonstrated by his Epistles (104, 110, 84, 86, 107-109), in which he tried to solve the problems of the miners in the Tavrului mountains, the problems of priests, orphans, criminals, relatives and compatriots. In the autumn of 372, St. Basil was accused by a simple monk of not confessing correctly about the Holy Spirit.

However, the Great Basil, in the spring of 375, completed one of his most important writings, namely, the Word of the Holy Spirit. In the summer of the same year he overcame his many ailments. At the end of 375 and the beginning of 376, when Emperor Valens was in Antioch, the heretics began the offensive against Basil, which they announced had to wait to appear in his defence before the emperor. He did not, and Emperor Valens withdrew.

In his diocese, he distinguished himself in a masterful dogmatic, pastoral and social activity, although most often only his quality as organizer or church administrator was emphasized, his huge literary and dogmatic contribution should not be left in the background.

As a monk and great ascetic, St. Basil was one of the great organizers of monastic life. Unlike the Egyptian hermit style, he conceived the monastery as a common space for prayer, work and study. The solitary lifestyle, according to him, involves the risk of selfishness and contemplation broken by the concrete reality of life. Salvation means by definition the filling of goodness with relationships with others, a continuous increase of communion. The monastic model established by Saint Basil has astrong social extension, serving in the social space. Monks serve each other in the monastic community, but in this way, they serve the entire social community, without remaining isolated in a space outside the world in which they live (Cooper and Decker 2012, XIV, 339. & 110 et seq).

At the theological and social level, Basiliad was the model according to which the Church, either the Byzantine or the national ones, was oriented in practical service. In the "golden age" of the Church, St. Basil the Great, who is known as the father and initiator of all settlements known today as the generic name of “Basiliad”, both in the “Great Rules” as well as in the “Commentary on the Psalms”, he bases the duty of helping his neighbour on the quality of a social being. According to St. Basil the Great, the duty to help one’s neighbour results not only from a positive commandment of the divine law “to love one another” (John 13:34), but it is based on the very social nature of man.

Man cannot live alone, isolated from his fellows, but lives with them, and through this very coexistence, he comes to the idea of the need for mutual help of those who live together. This explains the emergence of ideas of solidarity and cooperation between those living in the same social environment. But if in the course of time some came to exploit and oppress their fellows, this did not happen, according to Basil the Great, according to God's will, but as a result of man’s decay after ancestral sin, when some unjustly appropriated goods destined by God to be common to all (Zăgrean 1980, 225).

Saint Basil the Great expressed the issue of the rapprochement between the poor and the rich, among others in the following four homilies:

- Homily to the Word of the Holy Gospel according to Saint Luke the Evangelist: “I will spoil my barns and build them more;

• Homily against the rich or the second word against the rich;
• Homily spoken on the occasion of famine and drought;
• Homily that God is not the author of evil (Coman 1945, 5).

The heyday of charity is reached by the amazing philanthropic work of Saint Basil the Great, a model of Christian love and organization. St. Basil the Great organized social assistance in the Church since his pastorate as a priest. He built a complete charitable institution, which remained unique in its own way, even in the history of Christianity. The great social assistance establishment near Caesarea Cappadocia, called Basiliad (Cândea 2010, 67), was founded in 369-370 (Vătămanu 1969, 301) and inaugurated in 374, being invited by St. Gregory of Nazianzus who gave a famous speech on this occasion (Ioniță 1983, 13).

The revolutionary novelty that the creator of Basiliad offers to the society in the fourth century, is that every man, and first of all those who did not have the means of subsistence, not only had the daily bread insured in the Christian society, but found here the possibility of affirming them according to the gifts and inclinations of each one. Through such ideas, Christianity could no longer fear the competition of dying paganism, structured on social discrimination. St. Basil the Great was a preacher of almsgiving, and his actions were widely debated in sermons.

Arguing his earnest exhortations with quotations from Holy Scripture, St. Basil the Great says to his hearers: "We must be merciful and generous; for those who are not like that are condemned" (Plămădeală 1980, 140). Basil the Great also says: "Everything that someone would have more than he needs to live, he is obliged to give, according to the command of the Lord who gave us what we have" (Plămădeală 1980, 140), because "It is appropriate to let us take care of the need of the brethren, according to the will of the Lord" (Plămădeală 1980, 142), but the commandments of the Lord often grieve the rich, because they stop them from useless expenses.

When the Savior Christ commands the young man in the gospel to sell his possessions and give them to the poor, he becomes sad and leaves. "It seems to me that the fate of the young man in the Gospel, as well as of those like him", says St. Basil the Great, "is like that of a traveller who, in the desire to see a city, eagerly crosses the road to it; Later, however, he stops at one of the inns in front of the city and from the laziness of a little movement, he makes all the effort until then superfluous, depriving himself of the beauty of the city".

In order to understand Basil's social vision and his approach to matters of wealth and poverty, it is instructive to begin by examining his interpretation of the account concerning the rich young ruler and comparing his interpretation with that of some other early Christian commentators. How to understand Christ's injunction to the young man, "If you wish to be perfect, go, sell your possessions, and give the money to the poor, and you will have treasure in heaven; then come, follow me", was a subject of considerable discussion in the early Church said Fr. Paul Schroeder in his work (Schroeder 2008).

Liviu Petcu, in his research, related St. Basil's sermons which describe numerous exhortations to commit mercy even when the addressees of the exhortations do not live an opulent life because there is always someone poorer than them (Petcu 2009):

"If all your subsistence is reduced to one bread and a poor man comes to your door to ask for food, takes out of your pantry that one bread and raising his hands to heaven, he addresses to God this word, as moving as it is noble: 'I have only one bread, God, danger is before me; but I give, from the little I have, to the hungry brother; help Yourself Your servant who is in danger! I know Your goodness, I trust in Your power! You do not delay your graces for a long time, but divide when you want the gifts! If you speak and work in this way, the bread you give in distress will produce multiple fruits: it will be the germ of a rich harvest, the pledge of your food, the guarantor of divine mercies' (Homily to drought)."

Conclusions

All this inspires the social character of the problem, both in terms of genesis and amplitude in the social process. From the sociological point of view, does not deny the importance of social communication disorders at individual or group, but only emphasizes the fact, but it is only emphasized, when the very social context in which an individual, a group or a community entered a crisis evolves (Stoica-Marcu 2013, 129). In our case about Basiliad.

So do the people who receive to do the other commandments, but resist when it comes to wealth. I know many people who fast, pray, sigh, show endless piety, but do not take a penny out of their pockets for those in need. What use do they have for the other virtues? The kingdom of heaven does not receive them. "It is easier for a camel to go through the eye of a needle, than for a rich man to enter into the kingdom of heaven" (Oprea 2007, 31). Mercy, as a concrete expression of philanthropy, is the means by which God transforms man's selfishness into love for his neighbour, so that he may enter the kingdom of heaven.

We all pray for one and one for all and ask for the intercession of the Saints to be saved, as Saint Basil the Great taught us. Through all that he did, in what he thought and wrote, St. Basil imposed today all Christians' one and the same conduct, namely merciful love of the humble (Petcu 2009).

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Our Savior Jesus Christ, the Accomplished Model of Soul Shepherd

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ABSTRACT: Our Savior Jesus Christ is not just the model of our moral accomplishment, but the model of soul shepherds, meaning the priests who perform the holy services in the Church, in His name and through His sanctifying power. Just like the Saviors won the sinners' souls, He forgave them and attracted them to Him through His godly love, in the same way, the priest of our days has to behave towards his believers with undoubted love, kindness, patience and humbleness, in order to make them go back to the right way and get closer to God, with trust and open heart.

KEYWORDS: shepherd, model, holiness, sacrifice, love, redemption

Introduction

Our Lord Jesus Christ has established the Christian priesthood (John XX, 21-22; Matthew XXVIII, 19), in order to continue His redeeming work in this world. In the Holy Church, priests, sanctified through the Service of ordination, continuously fulfill this work of the Savior, sharing with the believers the fruit of objective redemption, achieved by Him through the embodiment, the sacrifice on the Cross, His resurrection and ascension to Heaven.

Content

To achieve the supreme goal of our mission and service as priests – the believers' redemption- we do not have to invent new means and methods of pastoral care, but we should appeal to the bimillennial experience and tradition of the Church, to learn from here how we should proceed in any circumstance, depending on the situation, with each category of believers, taking into consideration their psychological nature, their environment, the living conditions that they come from and their spiritual background.

For the moral-religious life and pastoral activity of the priest, the most eloquent example, more illustrative and more worthy of being followed is our Savior Jesus Christ "*The good Shepherd*" (John X, 11), Who defined His spiritual role thus: "*The Son of Man did not come to be served, but to serve Himself and give His soul as a reward for many*" (Mathew XX, 28). He expressed this imperative through other words, also: *"I came so that My sheep have life and have it in abundance... I am the Good Shepherd and I know my sheep and they know Me. Like my Father knows Me I know my Father. And I pledge my soul for the sheep"* (John X, 10, 14-15). He Himself confesses that He came into the world to save the human kind from the slavery of the sin. *"Son of Man came to redeem the lost one"* (Matthew XVIII, 11), He said to His holy Apprentices and Apostles, because "there is no wish before Father, the One in the Heaven, so that some of the little ones would die" (Matei XVIII, 14). The Savior's life, as a Shepherd, was nothing more than a mere use of these words. While preaching His evangelical teaching, He would cure all the sickness and inability in the people (Matei X, 1) and fed the hungry crowds (Matthew XIV, 13-21), and, at the Last Supper He washed His Apprentices' feet, thus giving them a true lesson of service and humility and saying: "If I, the Lord and Teacher, have washed your feet, you too have the obligation of washing one another's feet. Because I taught you a lesson, so you do just like I did to you" (John XIII, 14-15). The holy Apostles followed the example too. Translating into acts the Savior's example, the Saint Apostle Paul writes in the following manner to the Corinthians: *"Although I am free in front of everyone, I have enslaved Myself to everyone, in order to earn the*

most of them. I was like a Jew with the Jews, to win the Jew; with those under the Law as one under the Law, even though I am not under the Law, so I can win those who do not have the Law. With the weak ones I made Myself weak, so I can win the weak ones; I made Myself all to everyone, so that I, through any way, redeem some of them" (Corinthians IX, 19-22).

The Savior's attitude, like the Apostles', as shepherds, was determined by the great value of the souls for which He embodied in order to save them. The unmeasurable value of the human soul was shown by the Savior when He cherished a single soul more than the entire material soul: "*What use is to the man, if he wins the entire world, and his soul is lost? Or, what will man give in exchange for his soul?"* (Matthew XVI, 21). As a shepherd of souls, one needs to have and cultivate, in in one's life and pastoral-missionary life, the following qualities:

a) To have honest and uninterested love towards people, to be able to serve them with zeal. "In vain we boast with fasting, with watching, with poverty and with reading the Scriptures, if we did not achieve the love for God and the love for one's neighbor. For he who has achieved love has God in himself and his mind is always at God*"* (Stăniloae 1947, vol. I 127).

b) To give yourself in the work of helping them with all the sacrifice and endeavor. *The fruits of love are: to do well by your neighbor from all your heart, to endure for a long time, to be indulgent and to use things wisely"* (Stăniloae 1947, vol. II 42).

c) To cherish the human soul more than all the material goods. Taking into consideration the value of the soul, we have to take care, constantly, of its redemption to inherit the eternal life. "Let us fortify our mind, to strain our souls, to prepare our heart! For the soul we run; eternal things to hope for" (Fecioru 2003, 17), says a holy father.

Priesthood is, first of all, a mission. It is the mission of serving God and serving people in order to bring them as close as possible to God. *"We owe it to Him, according to the Savior's command, to show love to all the people and especially to true brothers who love us. Of course, the love in God is only one, undivided and unseparated and this is the one we have to spread for all alike"* (Teofil 1981, 697). The most practical and convincing example of this serving of one's neighbor in the spirit of the Christian love was given by the Savior, Who said about Himself *"No one has greater love than this, for his soul to put it for his friends"* (John XV, 13). The Savior's love is divine and all-encompassing. It surrounds us like the air, light and warmth because He loves everyone the same. *"He gives Himself entirely like the One that is love, he reveals, in the clearest possible way, His love to all those who love Him and want to get close to Him"* (Teofil 1981, 698). *In the command of love which the Savior left us as will, "natural love meets the divine one. Divine love comes to us in a divine manner, in the Person of God's Son, whose name is love" (I Ioan IV, 8-9)* (Bria 1992, 59). As a great teacher of the Church says, *"Christ came, above everything, so that man knows how much God loves him, and knowing, to light his love for the One by Whom he was first loved and to love his neighbor, loving him not when he is close, but far away, wondering."* (Mihăilescu 2016, 488). With the same warmth of love the priest must serve his king, given to him for guidance. Priesthood is a holy mission that can't bring spiritual fruit unless served with sacrifice, in the spirit of evangelical love. "You, make out from this love a sort of final goal, to which you connect everything you say, and express everything you have to say in such a manner that the one you are talking to, hearing, will believe, and believing to hope, hoping to love, says the same church priest".

The Savior was firm and consistent in word and deed. There was always a perfect concordance between His teaching and His life, one completely covering the other. *"His teaching was perfectly reflected in His deeds, and His life is unquestionably reflected in His teaching. The weld between them is so tight that they form an organic whole, undivided and inseparable. One perfectly interprets the deed* (Floca 1991, 55). The Savior identified with His divine teaching which He preached, lived, and fulfilled in an ideal way, showing all that the example of deeds has a much greater value than the word, as He Himself said: *"Not everyone that says unto me, Lord, Lord, shall enter into the kingdom of heaven; but he that does the will of my Father which is in Heaven."* (Matthew VII, 21). Addressing His disciples the urge:"*... learn from Me that I am meek*

and humbly in heart" (Matei XI, 29), He actually exemplified this divine commandment, having mercy on the poor, healing the diseases of the helpless, satiating the hungry crowds, humbly enduring the mockery, torment, and reproach received during His sufferings, and forgiving both the thief on the cross and those who had sentenced Him to death (Luca XXIII, 34, 43). Therefore, he asks His disciples to shine not only by word, but especially by deed.

Through the ministry of the priesthood, out of love for God and for people, the saving work of the Lord Jesus Christ continues in the world in its threefold aspect: sacramental, teaching and pastoral. Priests who transmit the truths of faith from the pulpit and share divine grace with the faithful are sanctifying organs of the Holy Spirit and guiding beacons of the speaking flock. The diligent and devout fulfillment of the priestly mission demands from each priest very special qualities and virtues. Even in the Old Testament there was talk of certain moral qualities of priests. Their lives had to be pure and righteous, *"that they might be holy to their God, and not defile the name of their God, for they offered sacrifices to the Lord, and bread to their God, therefore they had to be holy"* (Leviticus XXI, 6). Both the Holy Scriptures and the Holy Fathers, and the decisions of the synods, require the priest to be adorned with a special dignity and special moral qualities. The Holy Apostle Paul wrote to his disciple Timothy: "Do not lay hands on anyone, neither do you share in the sins of others. Keep yourself pure." (I Timothy V, 22). Referring to the moral qualities of the clergy (no matter what priestly rank they are), the apostle of the Gentiles requires them *"to be blameless, a man of one woman, watchful, wise, proper, a lover of strangers, worthy to teach others, not drunken, unaccustomed to beating, not agonizing over ugly gain, but gentle, peaceful, unloving of silver, well governing his house, having obedient children with all due propriety"* (I Timothy III, 2-4).

Understanding how high and sublime the priestly mission is, the Holy Three Hierarchs shied and fled from it, and when they received it, although they had unsurpassed spiritual qualities to this day, they embraced it with much emotion, then they succeeded in making it the most fruitful pastoral work, remaining over the century's incomparable examples of ministers, preachers and pastors of souls. The holy canons, the divine words and teachings of the Holy Scriptures and the works of the Holy Fathers ask the priest for righteous faith, unwavering hope, patience in troubles and temptations, and unconditional love for his pastors and for God, and these virtues must be proved by life, through his good deeds and purity of soul. For this reason, those recently baptized or baptized in cases of illness, immoral, undisciplined and aggressive, divorced or fallen from the right faith are not admitted to the priesthood. Also, the fornicators, drunkards, thieves and robbers, thugs, scandal-mongers and murderers are not admitted to the priesthood, according to the provisions of canons 9 and 10 of the First Ecumenical Council (Floca 1991, 55). Even if these candidates receive the priesthood, in the event of ignorance of their fallen moral condition, if they do not show signs of correction and persist in their deviations, they must be canonized according to the ordinance, if their guilt is proven.

He who prepares for the priesthood is obliged to think seriously of the high priestly calling, to examine himself at all times, and, seeing his shortcomings and weaknesses, to force himself to remove them and to adorn himself with Christian virtues, according to the exhortation of the Holy Apostle Paul, who says: *"Brethren, how much they are true, how much they are honorable, how much they are righteous, how much they are pure, how much they are worthy of love, how much they are of good name, whatever virtue and any praise, let them be your thought"* (Philippians IV, 8), and *"what you have learned and heard and seen in Me, do, and the God of peace will be with you"* (verse 9). From these words it is clear that the apostle faithfully followed the example of the Savior, and this fact He also demands from His disciples, saying to them: *"So, please, follow me as I follow Christ"* (I Corintheans IV, 16). He who does not strive to put this example into practice will never succeed in carrying out an evangelical apostolate at the level to which the Church calls us today. *"Following Christ therefore requires a firm commitment to communion with God and neighbor, and therefore involves free choice and radical decision-making."* (Bria 1992, 69), fact emphasized by the Savior in His Sermon on the mountain (Matthew VI, 24).

If someone finds that he lacks the qualities and does not have any means of correction, it is more dignified and more honest to look for another profession and occupation, so as not to produce folly in the Church. For the New Testament priesthood, in addition to the moral precepts, of which we have recorded only a few, we have a supreme model and a sublime ideal to follow: the life of the Savior, Who could always say of Himself: *"Who among you commits me to sin?"* (John VIII, 46). *"Jesus Christ does not bring into the world a philosophy, but a divine revelation. He himself, being life, brings a new and rich life, a life that had to be filled with edifying deeds."* (Călugăr 1955, 19). The mystery of the victory of our Savior Jesus Christ and the extraordinary power of the Gospel consisted in His blameless life and in His perfect example of virtue which He showed everywhere. *"Jesus's holiness is the divine holiness itself, the original holiness."* (Mladin 1953, 508). The example of the deed is essential in the priesthood, because this example builds, overcomes any obstacle and conquers the soul: *"Verba volant, exemplatrahunt"* said the old Latins. Therefore, our Savior Jesus Christ also urges this to the apostles, when He tells them that it must be "*the salt of the earth*" and "*the light of the world*" (Matthew V 13-14), drawing their attention to the fact that "*great will be called in the kingdom of heaven, he who will do and teach men thus"* (Matthew V, 19). The Savior showed people not only how to behave in order to become true sons of God, but also how to live in order to be worthy to become inhabitants of heaven. *"Thinking, right from here on earth, of the heavenly life, according to which, we deify ourselves ..., to have a living example of incorruption, the life of the Lord and to follow in the footsteps of God, the only One to look at, Who cares how and in what way it is possible for people's lives to become healthier"* (Fecioru 1982, 223), says a father of the Church.

Our Savior Jesus Christ said about Himself that He is the "Light of the world" (Matthew VIII, 12), and our Christian Church calls Him in its liturgical hymns *"The Sun of Righteousness"* and *"The High East",* which has spread the light of knowledge in the world by God. He is light not only as a teacher, but also as a model of moral perfection for believers. As the *"Sun of righteousness"*, He represents Holiness itself, the absolute Goodness, and the divine Wisdom from which springs the riches of all Christian virtues, because in Him are all the virtues embodied. How much light, and how much warmth and comfort pours out the gaze, the word and the attitude of Jesus, Who embraces us and embraces us all with His eternal and boundless love. He made His will out of the commandment of love, when He said to His disciples, "A new commandment I give unto you, That you love one another, as I have loved you" (John XIII, 34), leaving us, along the centuries the true model of serving people, in the spirit of love. He *"penetrates us with His divine energies, with His grace, with His holiness, unites us with Him and creates us again in His image. Through this relationship Christ dwells in us and we wear Him, we receive the form of Christ, that is, being Christopher's (bearers of Christ) we also become Christopher's (after the form of Christ)"* (Fecioru 1982, 610).

The culmination of His divine love was His Sacrifice on Golgotha, in which He shed His blood for the life and salvation of the world, attesting this by His own words, when He said to the disciples: *"No one has greater love than this, that he may put his soul into it for his friends"* (John XV, 13). For today's priest, who serves the holy in the name and with the power of Christ, these words are a reminder, a guide, and a guide to His whole pastoral activity, which He must constantly reflect upon, to put into practice, and to share with the people the light of Christ. The spiritual beauty of the divine image of Christ must shine in every believer "Which man has ever shone brighter than Christ ...? And yet, what man has ever enjoyed this radiance less, like Him? To what extent did Christ enjoy this radiance? His light has served us only; He did not enjoy it" (Blaise 2013, 43) said the philosopher Blaise Pascal.

We experience the presence and work of Christ in our Christian life only if we live in the light of His commandments, fulfilling His holy will. *"Through Christian deeds, the fruit of the collaboration of all the functions of the soul reactivated by grace in faith, Jesus Christ manifests Himself, for through them is manifested His working personality in us, His Self, which has become our self"* (Chițescu 2005, 86).

Conclusions

Our mission, of the holy ministers of the Church, is to behave in the midst of the world as "sons of light" (John XII, 36), spreading around us the light of love, peace, justice and goodness, for that our lives may be more and more beautiful and bright, that in this way our Lord Jesus Christ may make us worthy of the light of eternal life, which the saints enjoy in the heavenly kingdom, in the city of the New Jerusalem (Revelation XXI, 2), enlightened by the adoration of God, by Jesus Christ - the unseen and eternal light. (Revelation XXI, 23).

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The Fragrance of Cyber World 2080: A Perfume Forecast

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ABSTRACT: With COVID-19 causing people to work in a non-face-to-face mode, more of us have become aware of future forms of workspaces: a contactless workspace. With unprecedented methods of human engagement emerging, the perfume industry faces the need to evolve. This paper predicts the developing needs of next-generation perfume consumers and introduces survival tactics perfume businesses should adopt to catch up with the fast-paced changes. This study includes two surveys on 180 working adults. In these surveys, respondents spoke on their pre-pandemic and post-pandemic habits of using perfume, specifically their frequency of perfume use and preference of fragrance products categorized by fragrance type, scent duration, product form, and price. Results revealed that working in an isolated space has increased the liking for lighter scents, short-lived scents, perfume oils, single-use packaging, and lower price over heavier scents, long-lasting scents, fragrances and colognes, bottle packaging, and higher price. It showed from the study that the increased prevalence of private workspaces drove perfume from being a supplement for better social connections to being an investment for relaxation, satisfaction, and higher self-esteem. This paper includes a prototype - a sample "future perfume" - created based on these findings to propose what a perfume product might look like in a neo-workspace. This paper aims to investigate new consumer demand targeting the perfume industry and contribute to research on industrial adaptation and futurology.

KEYWORDS: fragrance, future, industry, perfume, workspace

1. Introduction

COVID-19 has put us in a widespread situation of social distancing, and of the consequences of the social distancing was a sharp reduction in commuting to work (Bick, Blandin, and Mertens 2020, 5). As the pandemic is forcing us to stay at home, we are facing certain unpredicted consequences, such as reduction of air pollution due to decreased commute by automobile. Our scope of activity has shrunken to the most private places with little to no human interaction, most of that interaction being between us and our families. As a result, markets that rely on human contact, such as the fashion, beauty, and skincare industry, are experiencing crises, many small brands facing a direct threat to existence.

COVID-19 has taken a step further to shedding light on new possibilities in forms of working. Though we have yet to adapt to flawless work-from-home, it is true that nearly two years of social distancing has accentuated the convenience of a contactless workspace. Positive emotions and high anticipation are revolving around the theme of non-face-to-face working, as can be seen from a tweet-based study on sentiments toward work-from-home where it was found that the majority of the tweets across the globe were done with three emotions, Trust, Anticipation and Joy (Dubey and Tripathi 2020, 15). Knowing this, COVID-19 could reveal to be a cornerstone of workspace evolution.

In rapid changes like this, repurposing helps companies to keep production lines up and running in times of low demand, generate moderate revenues, and positively impact their reputation (Betti and Heinzmann 2020, 3). This paper, focusing specifically on the perfume industry, looks into people's pre-pandemic and post-pandemic habits of using perfume. A survey composed of two questionnaires was given to 180 working adults able to represent the large population of people who have started to work more at home due to the COVID-19 outbreak. Respondents were questioned on basic information on perfume use and were then asked on their

changed or unchanged preferences for perfume products since work-from=home increased in 2020 to verify the following hypothesis:

Increased work-from-home has increased the liking for heavier scents, long-lasting scents, perfume oils, bottle packaging, and lower price. It is the objective of this study to understand the emerging demands of perfume consumers in a world of neo-workspaces. Suggesting possible pathways of market reconstruction and adjustment, this paper also aims to introduce a scenario a future cosmetics & fragrance industry might follow. By doing so, this paper intends to contribute to research on industrial adaptation and futurology.

2. Main Body

2.1. Introductory Research

To understand the impact COVID-19 could have on workspaces, it is critical to know how COVID-19 has become a transition period for various workplaces. Since the appearance of COVID-19, there has been a 12% and 9% decrease in working time within headquarters and satellite offices, and an increase of 20% to 27% in flexible office working is projected (Ancillo, Núñez, and Gavrila, 2020, 9). Many innovative companies are not striving to return-to-work. Rather, they are viewing social distancing as a new opportunity to experiment with a geographically dispersed workforce (Kaushik and Guleria, 2020, 11). Positive reactions towards contactless workspaces have spurred all across the world, suggesting a high possibility that a large portion of COVID-19 workspaces might stay like this instead of gathering back to headquarters and compact offices again.

It is already an established fact that work-from-home driven by COVID-19 is influencing the sales of many companies across numerous industries. We can consider this a market risk for the perfume industry because a majority of perfume consumers are used to the usual habit of applying perfume outside the home (Rogianto and Sutardi, 2021, 294). Within the beauty industry, there have also been movements as demand has shifted from cosmetic and hair care products to products like soap, moisturizers and sanitizers/disinfectants (Schwartz et al., 2020, 5). When it comes to make-up products, products most similar in purpose of use with perfume, purchase saw a dip since there is no need to go out (office, social gathering, etc) and during rare outdoor visits wearing masks make it irrelevant to apply makeup (Sharma and Mehta, 2020, 11). It is presumable that the perfume industry will also go through a continuous sales downfall if work-from-home is newly adapted as a prominent work form.

2.2. Methodology

Two surveys were conducted to understand how preferences for perfume products changed before and after the outbreak of COVID-19. 180 working adults in South Korea regardless of gender were selected for the survey. The age range was set from 25 through 45 to best reflect the usual perfume consumer cohort. The survey was posted as an ad on Facebook for 14 days from June 9 through June 23. Two questions were made to pop up before the respondent could proceed to the actual survey. The two questions confirmed that the respondent was between the age of 25 ~ 45 and experienced full or partial work-from-home for over a total of 1 month. To better focus the surveys on the current perfume consumer level, the keyword of the surveys, perfume, was revealed prior to having the surveys answered. This was done intentionally so that the survey could receive more responses from those already using perfume. As a second filter, respondents who clicked on the survey were shown a text asking to exit from the survey if they don't use perfume because their answers would be irrelevant in comparing changed preferences for perfume. It was mentioned that the completion of both surveys could take up to approximately 8 – 10 minutes.

The first survey focuses on the frequency of perfume use, mainly on how the frequency changed before and after the start of COVID-19. Comprising four questions, this survey provides insight into whether people's frequency of applying perfume has notably reduced since COVID-19.

Table 1. Survey 1 - Frequency of Perfume Use

1. How many days per week did you apply perfume pre-COVID? 1) 0-1 days 2) 2-3 days 3) 4-5 days 4) 6-7 days
2. How many days per week do you apply perfume post-COVID? 1) 0-1 days 2) 2-3 days 3) 4-5 days 4) 6-7 days
3. Do you apply perfume less now compared to pre-COVID? 1) Yes 2) No
4. Do you think work-from-home from COVID-19 has changed your frequency of perfume use? 1) Yes 2) No

The second survey pinpoints the more specific aspects of perfume preference. Divided into five categories (heaviness of scent, duration of scent, content, packaging, and price), this survey looks into the specific migrations of preferences and how the "trend" of perfume products has changed.

Table 2. Survey 2 – Specific Aspects of Perfume Preference

1. Since working from home, how has your preference for perfume changed? 1) Lighter perfume to heavier perfume 2) Heavier perfume to lighter perfume 3) Has not changed
2. Since working from home, how has your preference for perfume changed? 1) Short-lasting perfume to long-lasting perfume 2) Long-lasting perfume to short-lasting perfume 3) Has not changed
3. Since working from home, how has your preference for perfume changed? 1) Perfume oils to fragrances/colognes 2) Fragrances/colognes to perfume oils 3) Has not changed
4. Since working from home, how has your preference for perfume changed? 1) Bottle packaging to single-use packaging 2) Single-packaging to bottle packaging 3) Has not changed
5. Since working from home, how has your preference for perfume changed? 1) Cheap to expensive (Lower price to higher price) 2) Expensive to cheap (Higher price to lower price) 3) Has not changed

Results for the surveys were collected online via Google Form.

2.3. Discussion

Below are the results for Survey 1. Percentages were rounded to the second decimal place.

Table 3. Survey 1 – Results

1. How many days per week did you apply perfume pre-COVID?		
0-1 days	16	8.89%
2-3 days	37	20.55%
4-5 days	66	36.66%
6-7 days	61	33.88%
2. How many days per week did you apply perfume post-COVID?		
0-1 days	80	44.44%
2-3 days	53	29.44%
4-5 days	29	16.11%
6-7 days	18	10%
3. Do you apply perfume less now compared to pre-COVID?		
Yes	152	84.44%
No	28	15.55%
4. Do you think work-from-home from COVID-19 has changed your frequency of perfume use?		
Yes	142	78.88%
No	38	21.11%

A simple percentage frequency calculation was used to analyze the results. Below is a grouped bar chart outlining the results for Survey 1: Questions 1 & 2. This figure shows the distribution of the number of days in a week the survey respondents used perfume, before and after COVID-19. The numbers of respondents for each option pre-COVID are in blue and the numbers of respondents for each option post-COVID are in black. Results for the two questions were grouped based on option for easier comparison. What's noteworthy from this figure is that while the blue bars are higher around 4-5 days and 6-7 days, the black bars are higher around 0-1 days and 2-3 days. This disposition shows that more people have a tendency to apply perfume fewer days a week post-COVID compared to pre-COVID. How the responses weighted heavily on 0-1 days post-COVID shows the sharp drop in number of days people worked outside their private spaces and at their offices, compared to the 4-7 days of normal working days pre-COVID in South Korea.

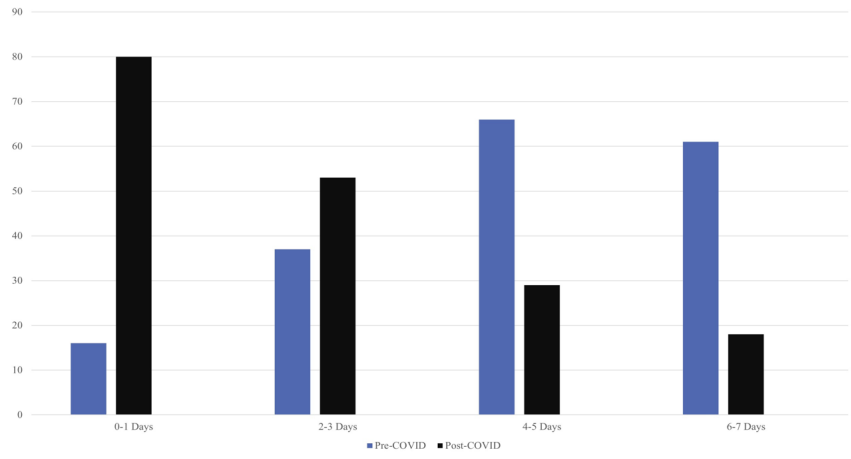

Figure 1. Frequency of Perfume Application – Bar Graph

The mean numbers of days can be calculated with the median values for each option as the standard multiple. Pre-COVID, respondents applied perfume for an average of 4.41 days per week. Post-COVID, respondents applied perfume for an average of 2.33 days per

week. This gap denotes the decline in everyday demand for perfume, possibly leading to a decline in market demand.

For positivity that this difference is a result of increased work-from-home due to social distancing, these questions were followed by a second set. The two questions in this set aim to directly ask the respondents on their perception of work-from-home and whether they believe that COVID has impacted their use of perfume. Both questions being simple Y/N questions, this pie chart illustrates the results.

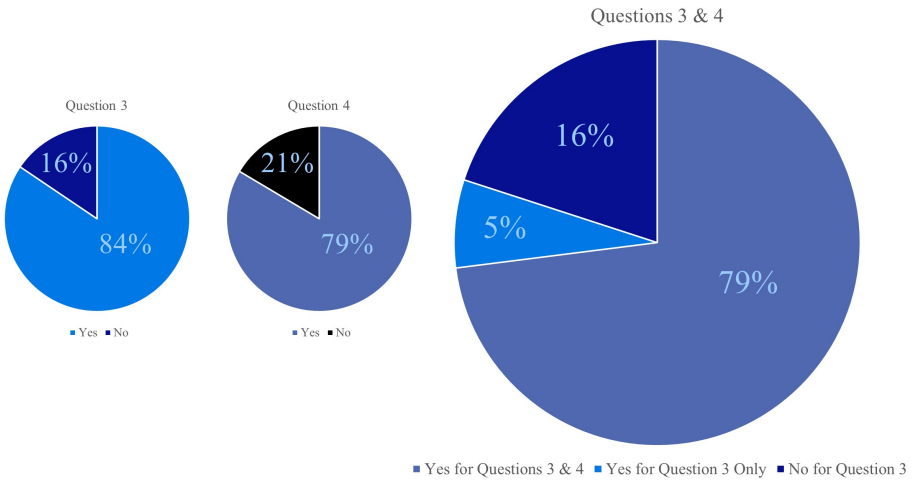

Figure 2. Frequency of Perfume Application – Pie Chart

The three pie charts each describe the results for Question #3, #4, and both combined. For Q#3 (Do you apply perfume less now compared to pre-COVID?), 152 respondents answered "yes", which is 84% of the survey group. For Q#4 (Do you think work-from-home from COVID-19 has changed your frequency of perfume use?), 142 respondents answered "yes", which is 79% of the survey group. A noteworthy outcome is that all 142 respondents who said that COVID-19 has changed their frequency of perfume use responded that they apply less perfume now than before COVID-19. It is surprising how all except 10 people who responded "yes" to Q#3 connected their decreased need for perfume to the pandemic and less contact while working. Below are the results for Survey 2. Percentages were rounded to the second decimal place.

Table 4. Survey 2 – Results

1. Since working from home, how has your preference for perfume changed?		
Lighter perfume to heavier perfume	28	15.56%
Heavier perfume to lighter perfume	125	69.44%
Has not changed	27	15%
2. Since working from home, how has your preference for perfume changed?		
Short-lasting perfume to long-lasting perfume	46	25.56%
Long-lasting perfume to short-lasting perfume	118	65.56%
Has not changed	16	8.89%

3. Since working from home, how has your preference for perfume changed?		
Perfume oils to fragrances/colognes	30	16.67%
Fragrances/colognes to perfume oils	123	68.33%
Has not changed	27	15%
4. Since working from home, how has your preference for perfume changed?		
Bottle packaging to single-use packaging	131	72.78%
Single-use packaging to bottle packaging	35	19.44%
Has not changed	14	7.78%
5. Since working from home, how has your preference for perfume changed?		
Cheap to expensive (lower price to higher price)	22	12.22%
Expensive to cheap (higher price to lower price)	147	81.67%
Has not changed	11	6.11%

Below is a visualization for the percentage distribution for each of the questions of Survey 2. It is noticeable that the responses weigh heavily on one option for each question.

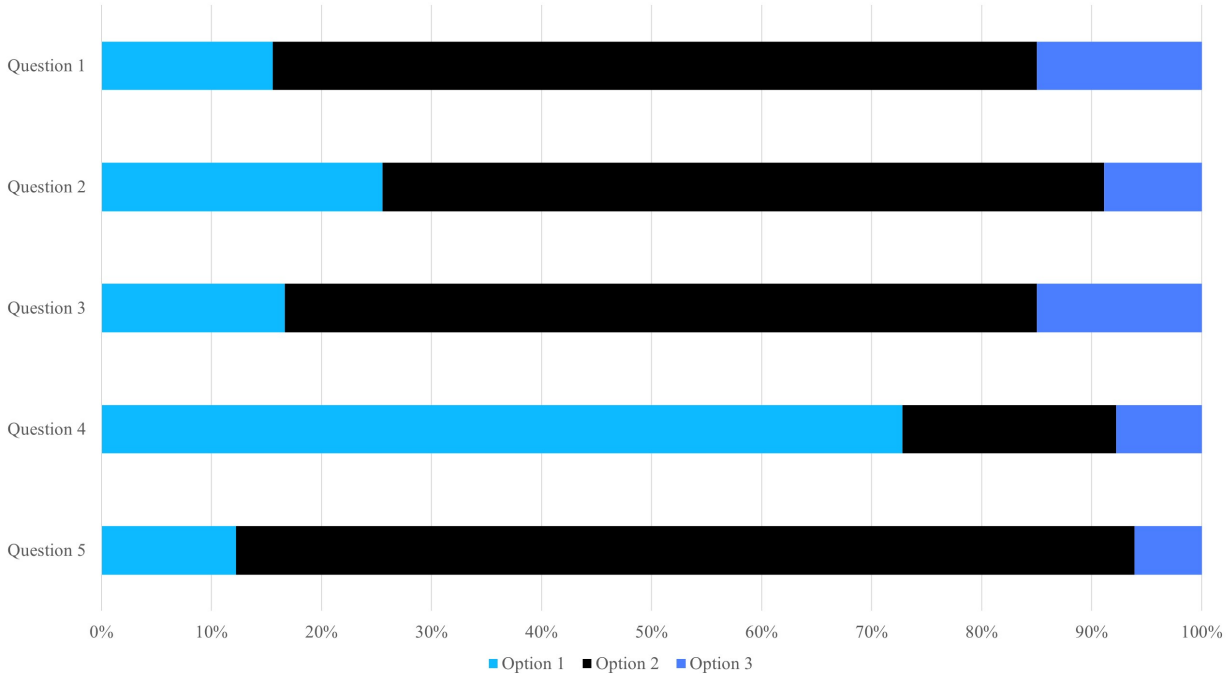

Figure 3. Preference for Perfume – Accumulative Bar Graph

The accumulative bar graph above contrasts the share of each option. It can be seen that Option 2 was dominant for each question except for Q#4 where Option 1 was dominant. According to the survey, 69.44% of the respondents preferred lighter perfume (Option 2) over heavier perfume. 65.56% of the respondents preferred short-lasting perfume over long-lasting perfume. 68.33% of the respondents preferred perfume oils to fragrances/colognes. 72.78% of the respondents preferred single-use packaging over bottle packaging. Lastly, 81.67% of the respondents preferred cheap perfume over expensive perfume.

This proves against the hypothesis that work-from-home has increased the liking for heavier scents, long-lasting scents, perfume oils, bottle packaging, and lower price. Rather, it has been revealed that work from private spaces due to COVID-19 has led to more people preferring lighter scents, short-lasting perfume, perfume oils, single-use packaging, and cheap perfume.

It can be observed from the results that unlike what was expected before the survey, people tended to prefer perfumes that are stored in small portions to use one at a time. This correlates with the high preference for light, short-lasting scents that can be applied once and then diffused quickly in a small, enclosed area. It is likely that isolation due to COVID-19 has directed the need for perfume from social relationships to personal satisfaction in a private space. Because perfume is now less for coworkers and more for oneself, there is a higher demand for short, quick sprays of good scent instead of strong smells. Higher preference for perfume oils, which sticks better to skin or surface compared to fragrances/colognes that spread relatively far, shows how perfume in COVID-19 revolves around a close proximity. The preference for lower price in perfumes also reflects decreased need for investment in semi-cosmetics and how purchasing fragrance products have become burdensome spending.

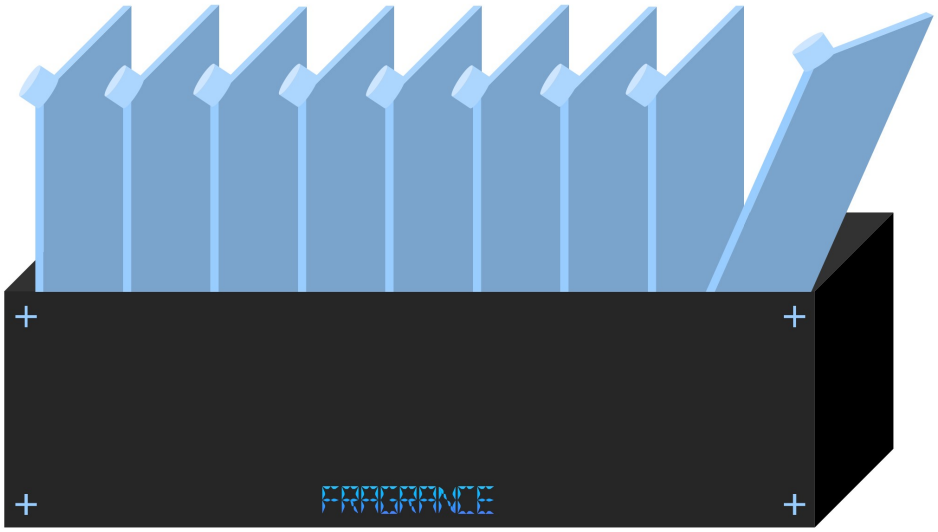

Figure 4. The Future Perfume: A Prototype

Keeping in mind that new workspaces that emerged due to COVID-19 might be implying the working environments that might appear in the future, it is necessary for perfume brands to steadily prepare for altered needs for perfume. Based on the survey, it is evident that perfume has become more of a luxury than a necessity for human relationships, and its benefits are focused on a small, private demand more than ever.

How people's likes have moved on from expensive, condensed, and heavy scents that can be sprayed from bottles of fragrances and colognes to cheap packages of single-use oils somewhat remind us of facial masks or lotions. The prototype above visualizes what perfume might look like in several decades. Unlike fancy bottles from high-end brands that carry little liquid and decorate our make-up booths, perfume might look like boxes of tissue or drinkable tonics.

Whatever form future perfume may take, we will most likely move on from the traditional forms of perfume to more lightweight and convenient perfume of more simple, refreshing scent instead of deeper scents than intend to leave an impression. It is also expected that consumer's process of choosing which perfume to purchase will rely more on personal taste than considering what social image they pursue. Therefore, perfume brands shall put an emphasis on designing likable scents that suit neo-workspaces like homes or one-man offices.

3. Conclusion

Unlike the original hypothesis that work-from-home has led to more people prefer heavier scents, long-lasting scents, perfume oils, bottle packaging, and lower price, the results of this study shows that the pandemic has led to more people preferring lighter scents, short-lasting perfume, perfume oils, single-use packaging, and cheap perfume. With two surveys supporting key findings, this research contributes to the broad field of study on perfumery and semi-cosmetics marketing.

One of the few limitations of this study is that experiments involving human contact wasn't possible, due to COVID-19. The original plan was to conduct two surveys and an experiment where participants would be given two forms of perfume to use in their private workspaces. The participants would be checked on which perfume they ended up using more and which product they liked more. This observation would have allowed a more in-depth understanding of the research topic, but frequent changes in environment due to self-quarantine and a sudden change in Korean working policies around June became an obstacle. However, respondents' active participation in completing the surveys helped gather enough data, and it is expected that further studies incorporating more field-based study methods will complement the learnings from this research.

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Romanian Communist State Persecution on Neoprotestant Children, Youngsters and Teachers

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ABSTRACT: While Adventist pupils and students suffered because of the communist regime, particularly because of not attending classes on Saturday, other neoprotestant children and young people suffered because of their faith too. Although they had Sunday as a day of worship and did not skip classes, they, along with their parents and teachers belonging to these cults, had to endure furious repressive measures.

KEYWORDS: church, neoprotestant, students, youngsters, teachers, communism, persecutions

Introduction

This article represents a revised and added subchapter from the Graduate Thesis titled *The Religious Education of Neoprotestant Children and Youngsters in the Communist Period,* unpublished, presented in front of the Evaluation Committee at the University of Bucharest, Baptist Theology Faculty, in June 2007, in Bucharest.

This research is exclusively reserved for the presentation of concrete cases of neo-Protestant children and young people, parents and teachers who endured the persecution of the communist regime on account of their religious beliefs. The specificity and uniqueness of this study is given by the fact that the information provided comes, in particular, from the unpublished documents in the Archives of the State Secretariat for Cults (A.S.S.C.), as well as from the Archives of the National Council for the Study of the Securitate Archives (A.C.N.S.A.S.).

Persecutions against pupils and students

Offenses, insults and even harassment were just some of the measures that a neo-Protestant student had to endure as early as the primary school classes (Țon 2000, 130). There were real campaigns to identify "repented" in higher education institutions and high schools. The neo-Protestant students were often summoned by special commissions to sign statements that they would cease to attend churches, otherwise they would be expelled, and the high school students were threatened that, if they did not sign such a declaration in turn, their names would be sent to all higher education institutions so that they would be rejected at the admission exam (Țon 2000, 125). In addition, high school students were allowed access to higher education only based on the membership card from the Communist Youth Union (U.T.C.). When a young person, pupil, or student, wanted to be baptized or even got baptized, the cult inspectors, together with the territorial inspectors, were in contact with the schools or faculties they attended to penalize them. The inspector of cults Ioan Rusu requested to the Department of Cults to issue instructions to Dolj county local inspector in connection with the report No. 1.003, dated 1970, drawn up by the latter, to inform the leadership of the Faculty of Electronics in Craiova that among those who had been baptized on September 25th, 1970, is the Adventist student Anghel Valeriu (A.S.S.C., no. 21338/23 October 1970).

At the Civil Engineering High School in Oradea, after he presented the students with the criteria to access higher education, the director advised a young Baptist to give up his religion so that he would not compromise his future and even write a statement to that effect (Grosu

2006, 124). Connected to this, we must also mention that the daughter of Baptist pastor Mihai Chiu, vice president of the Baptist Church in Arad, was rejected at the "Gheorghe Dima" Conservatory in Cluj for the simple reason that her father was a Baptist pastor. According to the father's statements, his daughter was told that in the socialist state there was no room for the Baptist's children in state schools (A.S.S.C., no. 13/6/2/1976, vol. 2, 4). For the same "guilt", Teofil and Christian Cocean, students at the Faculty of Medicine in Timișoara, were not received in the student's hostel (Grosu 2006, 124). However, these measures did not frighten the faithful children and young people who wanted to be baptized. On August 8th, at the Pentecostal Church in Arad II, an event where 55 candidates were baptized took place, most of them students and workers. A number of 29 candidates were U.T.C. members (Communist Youth Union) and, although the cult inspector had previously been in contact with the U.T.C. Municipal Committee they still got baptized (A.S.S.C., no. 545/2 September 1971, 1). As our study shows, many such cases had been recorded. Of the 105 candidates coming from Baptist families who got baptized in the Baptist churches no.1, no. 2, and no. 3 in, 72 were members of the U.T.C, and four were party members (A.S.S.C., no. - /October 27, 1971). Also, on 23rd July 1973, at the Pentecostal Church in Bistrița, Bistrița-Năsăud county, the baptism of 19 young people, of whom 11 were U.T.C. members, took place. In Arad county, in 1973, 75 young people were baptized at the Pentecostal church no. 1, of whom 68 were U.T.C. members. On July 1, 1973, 24 young people were baptized at the Pentecostal Church no. 1 in Timișoara, of whom 16 were U.T.C. members (A.S.S.C., Lungeanu 1974, 66). At the same time, on June 23rd, 1977, nine 18-year-old girls and a 50-year-old woman were baptized at the Adventist Church in Focșani. Initially, the cult inspector had been given a table with the names of 12 girls (11 of whom were U.T.C. members) which were to be baptized. Because of the intervention of the U.T.C. County Committee, who discussed with each one of the 11 girls, three of them changed their minds (A.S.S.C., no. 705/July 13, 1978, 2).

In some schools, the maximum punishment imposed on students because of their religion was expulsion. In Deva, two Baptist students, named Pasăre Lidia, a student in the first year at the Pedagogical High School and Vereș Ana, a student in the third year at the Vocational School, were warned by the leadership of the schools they attended that they would be expelled in case they would not give up their faith (A.S.S.C., no. 15/611/1976, vol. 1, inv. 4, 1). In other situations, such as the one in Hunedoara, the students were expelled for the simple fact that they were Baptists and they continued to keep their faith. Thus, pupil Cosma Claudiu was expelled and the elder of the church in Hunedoara also expected for his daughter, Hațegan Maria, to be expelled for the same reason. The girl's father, Hațegan Ioan, accused the school leadership of dishonesty for the expulsion of student Cosma Claudiu. The trustee of the Department of Cults proposed that Hațegan Ioan be removed from the cult management (A.S.S.C., no. 109/1962, vol. 1, Inv. A, 35 – 36). Also, the students Lăcătuș Cornelia, Stanca Lucica, Ancatan Catița, Cântean Corina, and Mândru Mircea were expelled from the Pedagogical Highschool in Arad because they were Baptists. On the occasion of the expulsion, the manager said to them: "You cannot be considered Romanians, you are merely traitors, people because of which society cannot move forward!" (Grosu 2006, 124).

The students also suffered the same punishment. Sfatcu Genoveva from Iași, a Baptist student at the Faculty of Philology–English, was expelled for "various deviations". At the time the cult inspector drew up this document, she was employed part-time at the church in Iași, training the church choir and having frequent visits to other churches in the country (Brăila, Arad, Oradea, Bucharest), where she would support the idea that Iosif Țon was unjustly sanctioned (A.S.S.C., no. - /1978, 3). In addition, in a memorandum addressed to the Department of Cults at the end of December 1985 by the Baptist cult Union Committee, the case of two Baptist students, from the Mining Institute in Petroșani, who in 1984, had been expelled for missionary activity in the Institute and for the introduction and spreading of some religious materials among their co-workers (A.C.N.S.A.S., no. 154/1985, vol. 4).

In other schools, the management resorted to other methods to make children and young people stop attending the churches where their parents were members. In most cases, neo-Protestant children had been constantly offended by both teachers and colleagues (Grosu 2006, 100). Such was the case at the Arad General School, the neo-Protestant pupils had to endure great pressure from the teachers who forced them to stand-up, threatened with low grades for behavior, and if they continued to go to church, they would be called every Sunday, to school activities. And to emphasize even more the constraints to which these students were subject, we must add that on Easter Sunday in 1981, they were forced to go to school, where they were told about the evolution of life on earth (Grosu 2006, 100). In other schools, such as the General School of Agrij, Sălaj County, on April 15th, 1975, Baptist students endured the mockery words publicly expressed by their director. And as if that was not enough, the militiaman of the commune threatened that if he still attended church, he would have to send them to a correction house for minor delinquents (Grosu 2006, 124). The first-class student Blaj Daniel of the General School in Arad, Pârneava, was told to stand-up in front of the class and mocked because he came from a Baptist family (A.S.S.C., no. 13/6/2/1976, vol. 2, 3). The same happened in Sebis, Arad county, in 1977, where the students were forced to kneel on the school corridor to face all the bad jokes and offensive gross jokes of their colleagues. And at the General School in Giseşti, Mehedinţi county, things went even further as far as neo-Protestant students are concerned. After being threatened, they were even hit by the teacher because of their parents' faith (Grosu 2006, 124). For the Baptist students in Reşiţa, the classes were held under the accusation that they were "anti-communists", that they were "the worms that gnaw the root of nationalism" (A.S.S.C., no. 94/1954, vol. 14 – b, inv. 140, 6). For the simple reason that they were Baptists, they were beaten in schools, prevented from following full training, and others were expelled from high school on the grounds that they did not hold a 'certificate of baptism' indicating their status as members of the Orthodox cult (A.S.S.C., no. 94/1954, volume 14 – b, inv. 140).

Sergiu Grossu, in his book *The Calvary of Christian Romania*, reports a story from the American Mission Bulletin "Christian aid for Romania", about a ten-year-old student named Viorica. The author simply reports that she, together with four other colleagues, were the only Christian students in a renowned school in the country. On Sunday, as expected, they went with their parents to church, thus skipping the special activities organized in honor of the Communist Party. Learning from the instructor of the "Sunday school" that, the next Sunday, they were going to see at church slides from the life of Jesus, she also invited her colleagues who were extremely interested to see other images not only with soldiers and flags. On the following Sunday, 90 students were absent from the school choir rehearsal. On Monday morning, at school, all classes were gathered in the auditorium for a special conference. Asked by the school manager why they had been absent from the rehearsals the previous day, Viorica's colleagues confessed the "guilt". The five students were brutally beaten, with Viorica being dealt with by the manager himself, so that their punishment would be lesson for other students who would be inclined to do the same thing. Viorica was hit with fists and feet by the manager until she collapsed while the children were screaming. After completing his "lesson," the manager addressed the children with the following words: "I hope this will serve you as a lesson and you will not go to church again!" In vain did teachers try to reanimate Viorica, and she only recovered after a few weeks of deep coma (Grosu 2006, 174-175).

Because on the educational-instructive level on well trained students no measures could be taken, apart from insults and hitting, it was also imposed the measure to decrease the grade for behavior up to grade two, as it was known that grade five for behavior meant repetition of school year. The pupils Radu Liana, Noaş D., Oală Maria, Sertiş Ana and Tomas Maria, from the 9th and 10th grades from "Ioan Slavici" High School in Arad, for no reason, were graded with two and three for behavior. And at the Pedagogical Highschool in Arad, the students Mândruţău I., Stancu E, Steiner D., Cânteanu F., in the 10th grade, and students Roşu Cornelia

student in the first year, Otiș Cornelia and Lăcătuș Cornelia in the fourth year, had their grade for behavior lower than eight. It should be added that at the Pedagogical High school, the second stage could only be continued if one had the grade of minimum of eight for behavior (A.S.S.C., no. 13/6/2/1976, vol. 2, 3-4).

Persecution against parents

In a context where children and young people suffered in schools in different ways, it is interesting to note the attitude of parents, churches and even pastors. In Arad, 10 – 12 pupils of the Industrial High School no. 5 were excluded from the U.T.C. organization, the reason being their affiliation to the Baptist cult. This created unrest among Baptist believers, who considered themselves persecuted on the basis of their religious affiliation, considering it as "anti-democratic and anti-constitutional". Grecu Traian, President of the Baptist Church in Arad, mentioned that the Baptist students in secondary education were scared and their parents threatened to write various protests, considering that the exclusion from the U.T.C. of only Baptist children was a barrier in their way to follow the path of a higher education institution, thus preventing them from gaining access to culture (A.S.S.C., no. - /5 March 1977, 1).

In the commune of Băuțar, Caraș-Severin County, to show their discontent that the school frequently admonished their children because on Sunday they skipped school activities, a group of Baptist believers, together with their pastor Bosneac Simion, presented on January 27th, 1974 at the Inspectorate for the Pioneers (A.S.S.C., no. 3683/891/1974, 6). Similarly, in Holod village, Tulcea county, when his sons were forced to learn poems with political content, Dudaș Victor, the children's father, addressed the teacher with the following words: "If you still give my children to learn poems with political texts, I will withdraw them from school!" (A.S.S.C., no. 5127/14477/1973, 5). On the other hand, in churches where various members tried to urge parents to let their children attend school celebrations, they met with enough opposition from members. One eloquent case in this respect is the one found at the Pentecostal Church in Chendrea, Sălaj County, where Emil Damasa tried to break in the opposing block of parents who did not allow their children to participate in school celebrations. He received only serious scolding from the other members (A.S.S.C., no. - /1971, 5). There were also Baptist pastors who, under the threat of ruining their children's careers by not accepting them at higher education institutions, signed the collaboration with the Securitate (Țon 2000, 185).

Nevertheless, the Christian Evangelical Christians, and especially the Pentecostal ones, were often accused in the reports of the cult inspectors of cultural backwardness and lack of educational training. Half of the Pentecostal pastors were workers and craftsmen (locksmiths, welders, builders, painters, tailors, carpenters, joiners, watchmakers, drivers). Almost a third of the total number of pastors were peasants, most of whom worked in cooperatives. In addition, 99% of Pentecostals had only four to seven primary classes or less (A.S.S.C., no. - /12 April 1974, 41 – 42). In a documentary material concerning the activity of the sects it was specified that, in order to justify their cultural backwardness and lack of educational training, some Evangelical Christians claimed that “Christ, when choosing his disciples, did not choose highly educated men, but fishermen” (A.S.S.C., no. - /undated, 8).

The same were the reasons the Pentecostals invoked when they directed their children only to vocational schools, to various professions (electricians, drivers, tilers, carpenters, mechanics, plumbers) or when they were withdrawing them from schools (A.S.S.C., no. 61/3 March 1980, 2). There were not few cases when parents chose to withdraw their children from schools so it would not "get the communist doctrine into their head", because "too much learning is bad". Among those prevented from attending schools were the very children who were at the forefront of education. Other parents proved more obtuse towards their children, as it happened in the village of Cristești, the district of Beclean, where teachers found that

some pupils came to school after being beaten by their Pentecostal parents, because they refused to accompany them to church, preferring to go to school (Nicoară 1960, 42). In Uivar, Timișoara district, Petre Petre, the deacon of the Pentecostal church was accused by local authorities of being a bad example among the other believers because he did not allow his son to join the middle school. Affirming that his son had enough knowledge, from the four classes he had graduated, enough to read the Bible, and that if he had followed the gymnasium, he would have learned too much, and that would drive him away from God. The example of the deacon was closely followed by other believers, among whom we mention Chizec Gheorghe, a member of the same church. These deviations were also brought to the attention of the President of the Pentecostal cult, Bochianu, who was asked both to discharge from office the deacon and to clarify the other believers about the issue of educating their children (A.S.S.C., no. 109/1961, vol. 1, inv. 103, 39).

The case of the family Sandu Gheorghe and Maria, who were first accused of the manner they educated their three children and then of withdrawing two of them from school (twins Anton and Traian), should also be mentioned. The main reason invoked for the two children's withdrawal from school was not "because of our poor social situation, as a result of discrimination based on political criteria, but above all because they are indoctrinated at an age when they are not yet aware, preventing them from being aware, later, to understand true democracy". The measures applied to this family were as harsh as possible, namely the decaying of parents from parental rights, placing minors in protection institutions and forcing the two parents to pay a monthly amount for the maintenance of minors. Apart from this case, there were many other families who were deprived of their children because of such a "blatant" guilt in the eyes of their respective officials, namely, the religious education of minors ("The file of Romanian believers Gheorghe and Maria Sandu's case." Catacombes (1977). Grossu 2006, 109 – 113). In Vișeu, after withdrawing the right to raise their children to a seven-couple group, the court sentenced them to three years in prison. Simion Teodorovici, from Jelna, the village of Budacu de Jos, the Pentecostal father of 12 children, also withdrew seven of his school-age children from school. It was a sign that it was not about indifference or disregard, but more serious about ill will and stubbornness. Maria Mureșan, the manager of the school, said: "We did everything humanly possible. We talked to the parents, their children, but all our moves were in vain. But at a certain moment, it seems that Maria Teodorovici, the mother of the children, agreed to send them to school. She faced the ill will and stubbornness of the father who, for personal reasons, decided to keep his children at home this year because there is no point in sending them to school." For the eldest son, a student at the Electrotechnical High School in Bistrița county, he had to retroactively pay 13.000 lei for the two-year scholarship Also, Georgeta Teodorovici also had the nostalgia of the school, she was among the first students at the admission contest for the mathematics-physics profile at the "Liviu Rebreanu" Highschool (Moise 1978).

Persecution against teachers

There were also cases when even teachers suffered because they were faithful and sometimes developed missionary activities among their fellow teachers or even among students. Jurjeu Gheorghe, a professor at the Special School for Blind people in Arad, was taken the teaching classes because he was a Baptist believer. Several teachers were also called to Arad Educational Inspectorate and forced to sign a questionnaire with insulting words about faith. Barbu Dorina, a graduate of the Pedagogical School in Deva, the preschool department, worked as an educator at Telinc for only a week, after which she was fired. Her sister, who was in the second year at the same school, was also expelled from school. Ilie Dănuț, a mathematics teacher at the Industrial Mining High School in Valea Jiului, a graduate of the University of Timișoara, promotion 1975, well appreciated for the competence with which he taught the subject, was even appointed head

teacher. He was given a studio flat and was considered as a hope of the teaching staff until it was found out that he was the son of Baptist Ilie Ionel in Bucium, Hunedoara county. As soon as he learned that he was a Baptist and that he came from such a family, the high school manager, Filip I., recommended him to find something else to do. Nemeș Alexandrina, a fourth-year student at the University of Timișoara, the Romanian language department, taught as a substitute teacher at the school in Fetești. She was under very careful surveillance in class, then called by the Inspectorate on Education and forced to give up faith. She was asked to declare, under signature, that she attended church out of coercion. Because she did not sign the declaration, she was released from office and stayed home until she finished her studies. Ghilea Lucia, a Romanian-language teacher, who was a holder at the Nălați preventorium, was warned that she would be fired if she was to attend church (A.S.S.C., no. 13/6/2/1976, vol. 2, 3-5). Mariana Basa, from Bucharest, was terminated her employment contract in accordance with the provision number 14, dated 11th January 1976, given by the Municipal School Inspectorate, because of her membership in the Pentecostal cult and the missionary activities carried out among the co-workers and students (Grosu 2006, 122).

Engineer Păulescu Terentie, professor of electronics at the Vocational School „Romanian Railways" from Arad until November 1976, was dismissed on the basis that he was a Baptist, although he was appreciated and even congratulated on the way he organized the school's physics lab. He presented a "memorandum" to Central Inspector Răducu Ion in December 1976 but received no response. As a result, the engineer intended to send a "memo" to the meeting of the representatives of the countries which adhered to the Helsinki "Final Act" in Belgrade, citing discrimination on grounds of religious belief (A.S.S.C., no. - /25 February 1977, 1; A.S.S.C., no. - /5 March 1977, 1). Also, Ilie Ion, a professor of physics at the school in Lapos, Prahova county, was also dismissed. And Professor Dobrescu, from Bucharest, was fired, as well as Almăsescu Cornel, a professor in Târgu Neamț, was dismissed. These and many other cases were collected and handed over by Silviu Cioată (Christian Evangelical Church) to Iosif Țon, who wrote a letter presented to Radio Liberty: "The situation of the neo–Protestant Cults in Romania and human rights", signed by Iosif Țon and Silviu Cioată. The paper was submitted to the Belgrade Conference and to the entitled authorities of Romania (A.C.N.S.A.S., no. 1087, vol. 2, 153).

Some teachers were dismissed because they were constantly in charge of the religious training of their children at church. A Christian Evangelical educator was fired because it was found that she oversaw the religious education of the children at church (A.S.S.C., no. 412/4 June 1973, 6). Because of their refusal to deliver materialistic-scientifical education to pupils and their introduction of Baptist religious literature in school, the School Inspectorate of Arad county decided to terminate the employment contracts of the mathematics teacher Hedeșan Leontina, from the General School of Secusigiu, as well as to the English-Romanian language teacher Alboni Estera, from the same school. The two teachers were Baptists, members of the "Speranța" church in Arad.

We are going to report both the questionnaire drawn up by the school inspectorate and the statements made by the two teachers (A.S.S.C., no. 27/13 February 1987).

Questionnaire:

1. "Since when have you been working in Arad County? Under what circumstances did you receive your post at the Secusigiu General School?
2. What kind of additional student training activities, complementary to the educational-training process, did you carry out with the students?
3. If you participated in the 'friends of Scientific truth' circle program. Why? What themes did you debate?
4. How do you carry out the themes: The anachronic character of religion, the creation of the world by God, about evil and hell, the religious morals, the morals of the degradation of human personality, etc.?

5. Is it correct and useful to encourage students to attend church? Why?
6. Is the status of teaching staff compatible with the attendance of church?
7. What do you think, the educational activities conducted with the pupils on Sunday, including the patriotic work, are useful for shaping their personality? Why?
8. Could the religious education of young people in our society make a positive contribution to the development of the personality of pupils?
9. Is it permitted to introduce and use religious books in school? Under what circumstances did you practice it? Where did you get prayer books?
10. What concerns do you have in your leisure time? What do you read? Are you participating in the cultural-sports activities children have on Sunday?
11. What are the people you have talked to on the train or at school about matters of faith in a supernatural force or others? Is such a practice welcome?"

Declaration by Leontina Hedeșan:

1. "As part of the additional activities with the students, we organized tuitions and consultations with the weaker students, and with the best, starting with this school year, I am preparing them for the Romanian language Olympics. As a matter of fact, I haven't been a head teacher for two years, as I am a substitute, which is why I haven't had any activities with the pioneers or the U.T.C. members. We have now worked together to prepare a literary montage, and in previous years I have been part of the vocal group of teachers and supported school lectures, preparing groups of students for lecturers, voice groups of foreign languages, plays.
2. I did not participate in the circle of the 'pioneers of the Scientific truth' because I was not asked.
3. Regarding my request to deliver subjects such as the 'anachronic character of religion', I would document closely and present the students with both the materiality of the world and its spirituality, so the world is made not only of things that are visible, palpable, but also of things which are not visible. I would not give them any further details, as it involves a debate that goes beyond my attributions in my work with students at school.
4. It is not useful to influence students to attend church, because going to church does not mean everything in their becoming. This is the responsibility of the family who has the right to direct their own children along the path they want.
5. Regarding the question whether the status of teaching staff is compatible with attending church, my answer is 'yes', since the church does not teach bad things, but inspires in one the fear and respect, the love and adoration of God, society and individual.
6. Yes, because they train for work, adding a more powerful fiber to their character.
7. In my opinion, Christian education has contributed to the fulfillment of my personality from a moral, social, spiritual, and patriotic point of view making me a worthy citizen, loving honesty, truth, justice, mercy, and having respect for the people and the land of the country in which I was born, I live and work.
8. Religious books are not allowed in school. I do not know how the brochure 'Alege viața' (Choose life) was sent from Alboni to colleague Miulescu, as this year I am to teach in three schools and only in certain days I am in Secusigiu.
9. I read the professional magazines 'Tribuna Școlii' (the School Tribune), 'Revista de pedagogie' (The Teaching Magazine), 'Limbile moderne în școală' (Modern Languages in School), pedagogical literature, party and state documents, scientific-educational books, magazines, newspapers such as 'Flacăra roșie' (The Red Flame), 'Scânteia' and 'the Bible'. On Sunday I rest, attend the Baptist Church 'Speranța', prepare my sketches for the next day, read, visit and go for walks.
10. Outside school and at school, I did not pursue proselytizing acts."

Declaration by Estera Alboni:

1. "I graduated from the Faculty of Natural Sciences, mathematics Section, in 1981.
2. I gave mathematics lessons to the students who were to take the step exam, training for the Physics Olympics, prepared 'Cel mai bun experimentator' (The Best Experimenter), held the 'Cercul de matematică' (Mathematics Circle), and trained and taught the weaker students.
3. I did not participate in this circle because I was not asked. I have little children and they have not asked me.

4. I cannot accomplish the themes of the anachronistic character of religion because I have a different opinion about these things. I can perhaps present them from the point of view of authors or scientists, without imposing my point of view, because I believe that God has created the world, that there is hell and heaven.
5. If the students attend church, I do not think this is something wrong, because they have nothing bad to learn from it. But it is not fair for us to stimulate students in this respect. They are free to decide what to do.
6. Yes. Because it has nothing to do with what I think or what I do at church with the way I teach my mathematics lesson.
7. They are useful because all activities organized by the school are useful for the development of pupils' personality, they have been designed and proposed for this purpose.
8. I do not know. It depends on what kind of religious education we are talking about. If they believe in God, they are accomplished.
9. I do not think it is allowed to introduce books with religious content in school. I had a book on me, though, in the autumn of this year, when I was in practice with the students. My colleague Miulesc Constantin said he did not believe in God, but that he wanted to educate his daughter about it. I would like to mention that he always provoked me in all sorts of discussions, but I did not want to talk to him. To convince me that he was well-intentioned, he also showed me a 'Bible' which he claimed his daughter was reading. The book I had, I borrowed it from a friend during my student years.
10. If there are organized working hours in school on Sunday, I do not participate. In my leisure time, I read specialty books and novels, but lately, less, because I have two little girls and I have no time. I also read the press or brochures and books necessary for preparing the classes of political information, or the head teaching classes. If it happens to find, I also read booklets on religious themes. I have commented on such subjects with my colleague Hedeșan Mariana."

A similar case is Loredana Vera Licu, Christian Evangelical Church member and teacher at School no. 1, with Classes 1 – 10, from Boldești–Scăieni. After working as a fourth-grade teacher, where she received, from the manager, at the end of the year the rating "very good", she went to the Extended schedule Kindergarten no. 5 in Boldești–Scăieni due to the staff restriction. And here she was noticed and received the same rating from the leadership at the end of the year. In 1981, she passed the test with the middle group and was even proposed for promotion by the method inspector. Despite these successes, at the end of the new year she received only the "good" rating from the new director Pantilimonescu Paul, who had previously asked her if she wanted to remain a teacher, then she would have to abandon her religious beliefs. She was subsequently called by the deputy director of the General School in Boldești-Scăieni to take up the position of schoolteacher. Thus, she became a teacher again, in a class that included nine Roma children, with little possibilities, one of whom repeated first class for the third time, three other children were schizophrenics who repeated first class for the third time, and two children came from divorced families. These aspects led to many tuitions, visits to the pupils' homes, the purchase of notebooks, pencils, drawing pens and brushes, for those who did not have money, for some she also made it possible to have their hair cut to ensure their presence in school. Following an inspection, she was reproached that her membership of the Christian Evangelical Church was incompatible with the tasks arising from her profession.

She was reproached that if she had loved her profession and her children, she would have chosen to give up her faith in order to remain a teacher. A few days after this incident, she was called by the mayor to be informed that if she did not give up her faith, her new job would be the local poultry slaughterhouse. Only three days after this incident, she was fired, even if "the teacher is, broadly, well trained". If her training was just "appropriate," it is very difficult to explain the "very good" ratings and the regrets and the revolt of the parents following her dismissal. Rodica Dragu mentioned in her referral, which practically concluded this case: "Since Thursday afternoon and Sunday morning she regularly attends the religious

gatherings, it is clear that school duties cannot be performed when scheduled on those days" (A.S.S.C., no. - /9 June 1983, 1-9).

Because of these measures against the neo-Protestant religious cults and, in particular, the presentation of the Baptist cult as a "sect", the Orthodox priests in Bușteni, Sebis and other localities began to carry out calumnious campaigns against the Baptists, claiming that after the "Education Congress", they were to be liquidated because they were not loyal to the state. Because of these things, the Baptist Churches lived in the fear that they should prepare for the beginning of persecution because of faith. In churches, groups of believers appeared praying for the power to resist possible interrogations. These groups, which had not previously existed, were mostly young believers (A.S.S.C., no. 13/6/2/1976, vol. 2, 4).

Against this background of instability, when it appeared that there was no future for the children and young neo-Protestant people, there were also voices that made the voice of children expelled or humiliated from schools heard, even abroad. Guided by the text from Proverbs 31, 8, which says, "Speak up for those who cannot speak for themselves, for the rights of all who are destitute", Iosif Țon, a pastor at that time in the Baptist Church no. 2 in Oradea, decided to write a work to defend the cause of the persecuted, being helped to collect materials by Aurel Popescu and Pavel Niculescu. The document was read on 3rd April 1977 after the newsletter at Radio Liberty. It is not hard to see what the communists' reactions were. Refusing to stop reading it live on the radio, those involved in drawing up the document were arrested the following morning and, for five weeks, were investigated and beaten at criminal investigation headquarters in Rahova Street. The immediate result of reading the document was the ending, at least for some time, of the persecution in schools (Țon 2000, 125-128).

Conclusions

Either because they were absent on Saturdays, as in the case of Adventist children and youngsters, or simply because they shared the faith of their parents, as was the case with other children and young neo-Protestants, they had to face in schools the hate promoted by the regime, both from school leaders, and from colleagues. Attempts were made to intimidate pupils and students by lowering the grade for behavior or expulsion, being left repeating the year, humiliated, and mocked. The parents of these young people were fined or even excluded from worship simply because they wanted to keep their children in the sphere of religion. Not even the neo-Protestant teachers escaped the communist repressive wave, many of them being fired for religious reasons. Although their path to education and culture was permanently hampered by the communist authorities, young people went to schools, becoming intellectuals who helped to strengthen the cults and spread spirituality both in the settings they had learned and in the environments where they went to work.

If Romania still offers the society people fearful of God, it is only the direct consequence of the fact that once some parents struggled to give to their children all their religious and moral legacy. On the other hand, if today we have a generation in whose hands we fear to leave the country, it is also because they are the unfaithful children of yesterday, in whose vision "God" is only the money, the job and the self-interest.

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Some Considerations Regarding the Importance of Using the Old Testament in Sermons and Teaching

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ABSTRACT: In the light of preaching the Christian doctrines for the Church, the focus is usually on using New Testament texts as the main foundation. This may come out because of the way preachers and teachers were formed in the theological seminaries or just because they copy each other when it comes about transmitting the doctrine to the next generation. That makes the teaching and preaching of the Old Testament a secondary issue. For these people and their local church members seems that by focusing on the New Testament texts the Christians feel more appropriate to the right doctrines because they study the sayings and writings of Jesus and his apostles. But such actions have their outcomes. Therefore, this paper will focus on discovering if there is any importance at all in using Old Testament texts for transmitting doctrine and not just some life examples or faith heroes' stories and if these are important for the spiritual formation of every Christian and especially for the newly converted ones. The process will start with an analysis of the use and meaning of the Old Testament scriptures for Jesus, his disciples, and the apostle Paul. Then it will continue observing what some other Christian theologians have to say about that, concluding in if it is worthy or not to focus on Old Testament scriptures for doctrine and life changing teachings.

KEYWORDS: Old Testament, teaching, preaching, OT scriptures, OT importance, OT doctrine, Christian formation

Introduction

Among some Christian preachers and teachers today there is a tendency to leave the teaching or learning of the Old Testament in the background. At first glance, the main reason is an understanding that in this way Christians will be closer to what the apostles and the Lord Jesus were and did. But this trend also brings with it its consequences. As a result, it is important to consider an analysis of the importance of Old Testament preaching and teaching for believers in the Church, and especially of new believers who will be formed from the beginning based on what is presented to them as important. The danger of treating the Scriptures in a dichotomist way is damaging for the Church, especially because it orphans it of the great beauties and riches contained by the Old Testament. Once the Old Testament is out of the way, there remains little to strengthen or understand doctrines as creation, origins, God's person, character, and ways of treating his people and other nations.

Its origins in the Old Testament Scriptures are overlooked by some Christian ministers, preachers, and teachers. The news of the Holy Spirit poured over it to lead and empower, and the faulty understanding of some Scriptures lead to some improper actions on the part of those responsible to teach the Word of God. Sometimes the start can be triggered by the very way the use of the word "Scriptures" is understood. Most of the times the Christians will suppose it refers to the whole Bible. Of course, in some cases, by extension, one could understand it that way. What if it should be kept mainly to its first meaning? What would surface because of it?

The meaning of the word "Scripture" in the NT

The way it is used

In the New Testament, the words Scripture (31 times) and Scriptures (20 times) are used 51 times to translate the Greek word γραφή (*graphē*) which could simply refer to a writing or some writings (Strong 1890, *s.v.* G1124) and one time the word γράμμα (*gramma*) which could refer to a letter, a document or a sacred writing (Strong 1890, *s.v.* G1121). Of course, due to the context it becomes clear that the writings it refers to are none other than the writings of the Old Testament, therefore the decision of the translators to use the word Scripture/Scriptures. This is fine as long as there is a recognition of the fact that these words refer purely to the Old Testament Scriptures. As soon as these words are interpreted as referring to the writings or the books of the New Testament there arise new problems. Of course, there are a couple of instances where one should agree that these words could apply by extension to the Scriptures of the New Testament, too.

Besides these there a lot of phrases that look like: „it is written" (Mat. 2:5; 4:4, 6, 7, 10), „according to what it is written" (Mark 1:2), „because it is written", „is it not written that" (Mark 11:17), „the prophets prophesied about" (Luke 1:70; 24:25), „it is true what Isaiah prophesied" (Mat. 15:7, Mark 7:6), „to fulfill all the things written in the prophets" (Mat. 26:56), „it is written in the prophets" (John 6:45), „David… prophesied about the resurrection of the Christ" (Acts 2:30-31), „spoken by the mouth of all his holy prophets since the world began" (Acts 3:18, 21, 24), „all the prophets testify about Him" (Acts 10:43), „they fulfilled the word of the prophets" (Acts 13:27).

All of these are parts of the statements made by the Lord Jesus and his disciples: Philip, John, Peter, James. Some of them can also be found in the Apostol Paul's discourses or letters. One thing is clear that even these refer to the things that were written in the Scriptures of the Old Testament. Therefore, every Christian should be aware that the Old Testament scriptures were of great importance to the New Testament writers. They based their writings to the Church on them. At that time, it probably did not even occur to them that one day their writings would be placed in a canon and called scriptures alongside those of the OT. A good question would be: What would Matthew, Mark, Luke, Peter, Paul, James, Judas, and John say today if they heard how often Christians allude to their scriptures as scriptures?

New Testament people were mighty in the Old Testament Scriptures: The Lord Jesus, Stephan the deacon, the apostle Paul, and Apollo. They overturned the arguments of the Judaizers, and Jewish so-called believers. And all of them used the Scriptures in their public messages.

Is the Gospel part of the Old Testament?

Another important part of this construct is the way the Gospel is contained in the Scriptures of the Old Testament. Although there will be no presentation of that in this study, the first person to use the OT Scriptures to explain the Gospel was the Lord Jesus on the road to Emmaus. He used the Scriptures written by Moses and all the prophets and stated that even His resurrection was to be believed based on the OT Scriptures.

The next in line was Philip who presented Christ and his death and resurrection based on the Text of Isaiah 53. These can be proofs that the OT contains more than just a history of the Jewish nation and some prophesies for future reference. Even the Apostol Paul states that the Gospel itself is contained by the OT Scriptures: "the gospel of God, which he had promised afore by his prophets in the holy scriptures" (Rom. 1:1-2). One of the most important things of the Gospel and Lord Jesus is the fact that He is not just a historical figure, but a prophesied historical figure. It means that to believe in a historical person, somebody who lived on this earth is not that hard, especially when there is some archeological or historical evidence. But to see that a historical person was prophesied about many hundreds of years before that is a great miracle. And these things are part of the OT Scriptures.

In comparison to these methods of using the Scriptures, nowadays Christians base a lot of their preaching and evangelistic messages on Bible verses from the New Testament. Some might wonder if there is more efficiency in proceeding like or in using OT Scriptures, too.

Stating the main problems among evangelicals

Among the charismatic circles and not only there si an emphasis on using „the new wine in new wine skins". It refers to the fact that now is the age of the Church and the old things of the OT should be left behind. It emphasizes that the main things the Church needs are given by the Holy Spirit and therefore the focus should be on a new anointing of the Spirit. These ideas are slowly spreading into the more conservative churches and, for many believers it induces the idea that there is not much need of the Old Testament. It has become unimportant, and the believers should focus mainly on the ministries of the Holy Spirit. These ideas miss to mention that the very doctrine of the pouring of the Holy Spirit was prophesied before the Age of the Church, and it is written in the OT Scriptures.

This trend is found even in the more conservative churches. Charles Andrew Stanley, known as Andy Stanley, a prominent pastor and speaker of a nondenominational network of churches used to be a member of the Southern Baptist. Although his background is more of a conservator, he wrote a column in the online Christian platform of Relevant Magazine (Stanley 2019) and a book called: *Irresistible: Reclaiming the New that Jesus Unleashed for the World*. In both, he claims that the Church should stop focusing on the Old Testament. This paper will not treat statements of his book, only some mentioned in his column as these are the first hands on material for the larger Christian community. He encourages the believers to stop fulfilling the Old Testament commandments because they are related and dependent on the old covenant. Now, because the Christian believers are bound to a new covenant, they should not submit to any of the things contained in the first part of their Bibles (Stanley 2019). More on this will be developed in the later part of this paper. It is worth mentioning that theologies developed in the west reach countries in the east, and one of them is Romania.

Referring to the situation in Romania, it seems that because the Scriptures are not sufficiently read and known by Christian believers, there arises an imbalance provoked by the supposed fact that the Law and the Gospel are antagonistic. Some in the Romanian churches will use other synonym terms: old covenant and new covenant; or the Law and the Grace. More and more preachers and teachers of the Bible in Romania focus their attention mainly on the New Testament and although they often cite Old Testament verses, commandments, or prophecies as they read the Scriptures in the Church or during their presentations, they forget to grant the right importance to them. For example, they forget that even the claim that the righteous will live by faith is not a doctrine defined by the apostle Paul but a quote he borrowed from the writings of prophet Habakkuk (Hab. 2:4) of the Old Testament.

Every believer needs to be able to defend his faith and even counterattack evolutionary, atheistic, and postmodern ideas. Fundamental teachings on these subjects can be found in the Old Testament. To know them requires explanations and examples of discussions that cover the full range of ideas to which believers may be exposed.

Some of the newly converted Christians come from different social backgrounds, and struggle with ideas that come from atheism, evolutionism, magic and witchcraft, the New Age, and urgently need appropriate answers. For example, the knowledge that divination, magic, and sorcery are an abomination to God and that He forbids their practice is taken from the pages of the Old Testament. The New Testament mentions the burning of witchcraft books, the release of a maid who had a spirit of divination, and a sorcerer named Simon. In the same vein, William Dyrness says that "when missionaries and pastors base their entire preparation on the New Testament, they cannot give the Word of God all its power" (Dyrness 2010, 13).

Yet, Walter C. Kaiser formulates the start of the battle against the Old Testament first in the second century under Marcion influence and then a renewal of that at the Sport Palace demonstration of Berlin German Christians on November 13, 1933 (Kaiser 1991, 14-15). In his view the problem gets more complicated because of the influence of Friederick Delitzch, F. Nietzsche, Adolf Harnack, and Friedrich Schleiermacher. This is a topic that will not be developed in this study.

The need and response in the Church

If the books of the Bible were divided proportionally, those in the Old Testament form about three-quarters. One of the simple rules of biblical hermeneutics says that when there is a large amount of text allocated to a subject, it means that it must be an important topic. This simple fact should be considered when encountering the Scripture.

The content of the OT Scriptures was used by the Lord Jesus and the apostles as the Scriptures. Their life was formed in the social-religious context prepared by the principles of the Old Testament. None of them rejected the Scriptures or repudiated them, on the contrary, they pointed to concrete situations through which the Scriptures were fulfilled and to concrete situations that served them and other Christians as examples to follow or avoid.

Samuel Schultz, professor of the Old Testament, states that Christians should accept the Old Testament as a supreme authority. He founds his claim on the fact the Jewish people of old and the early Church treated it that way (Schultz 2008, 19). L. Gaussen, professor of systematic theology adds to this. “Nowhere shall we find a single passage that permits us to detach one single part of it as less divine than all the rest.” (Gaussen 1867, 67). In his view, all the Word of God is prophetic and should be considered more than just a simple utterance from God. It is the “oracles of God” (Rom. 3:2) which means that it is the very “verbal and complete inspiration” (Gaussen 1867, 68).

A reason why preachers and teachers should emphasize the teaching and learning of the Old Testament in a balanced way is to repair the imbalance caused by the "deficiencies" of knowledge and interpretation of the Old Testament. As Eroll Hulse put it: “We should never place the law and the gospel in opposite positions. One is a complete complement to the other. They are the twin pillars of God's temple” (Hulse 2012, 235). Walter C. Kaiser takes a plastic picture of this by presenting it in quarters, of which three are allocated to the Old Testament (Kaiser 1991, 29). If the believers do not know the Old Testament, then they will have gaps, lacunae and imbalances that can inevitably lead to one or more of the following consequences: a lack of trust in God's faithfulness, a lack of knowledge of God's person and attributes, a misunderstanding of certain actions in the New Testament, lack of power in the face of pro-evolution attacks, the tendency to have anti-Semitic impulses, disinterest in having an apologetic attitude for the Christian faith.

The preachers and teachers must keep in mind that in society, every Christian needs to be strengthened in faith, to be able to respond in an appropriate way to any influences and to take the right stance in any situation. Besides these, Richard J. Foster warns the leaders to keep in mind that “God has given the spiritual life disciplines to ordinary people who go to work, have children to raise, wash dishes, and mow the grass,” (Foster 1996, 9). In all these situations, the areas most affected are about the creation, the person of God and the fulfillment of God's words. These areas find their most relevant answers only if the Old Testament is included in the teaching and learning of Christians.

Regarding daily life and challenges, practical examples are to be found all over in the Old Testament. Every person is guided in life also by the model of those people he considers to be his "heroes". The Old Testament abounds in heroes of the faith, some of whom are mentioned in the New Testament (Heb. 11). Especially for the children of the believers, the attitude, and actions of people like: Noah, Abraham, Joseph, Moses, Joshua, Ruth, Samuel, David, Esther, Daniel, and others are inspirational. They bring simple encouragements for difficult situations, and challenge

them to be steadfast in their decisions, patience, perseverance, prayer, etc. Most of these decisions become a way of life for them even when they have already become adults.

Sometimes, adults look in a different way at the examples from the Old Testament: both the positive ones and the negative ones, being aware of the lessons to be learned. In the same way, the apostle Paul encourages the knowledge of the Old Testament (1 Cor. 10:1-11). He challenges the believers to a beautiful, temperate experience, concretely exemplifying with the "parables" from which he extracts the exhortations he gives. The same results can be expected today from believers who, encouraged by each minister, come to choose what is good and pleasing before God. This will have a good and pleasant effect on other people in the family and community.

Looking further into the future, Christians expect to live an eternal life with God. But the eternal dimension of God, in terms of the past, is best understood in the Old Testament. That is where God revealed His Name, attributes, and plans. When church ministers also preach and teach the Old Testament, it gives believers, and especially new converts, a whole picture of the person of God. Graeme Goldsworthy observes that "the New Testament takes us back to the Old Testament, because it always assumes that the Old Testament is the basis of the gospel" (Goldsworthy 2008, 53). These should lead the preachers and teachers who think in these terms to press harder to a better knowledge and understanding of the Old Testament. By doing so, they will help themselves and their Christian community to identify the character of God more easily, and to observe that the New Testament brings continuity to the plans God has made, prophecies are fulfilled, doctrines are explained, and in this way the content of the New Testament will be identified more accurately and approached with a lot more confidence. An example could be the one mention above about the difference between a historical Jesus and a prophesied historical Jesus. The very Jesus that fulfilled the prophecies. This can also serve as an impetus to read and study the Holy Scriptures to understand God's plans as deeply as possible.

In the same frame of mind, believers could be amazed to see God's boundless love and wisdom in the very plan of salvation. To understand as Mark Dever points out that "Jesus, our interceding priest, offers us a new relationship with God by unraveling the mystery of the Old Testament: how the Lord can ‘forgive iniquity’ and yet ‘not count the guilty as innocent’?" (Dever 2011, 34), can produce in the lives of believers and new converts a firm desire to respond with devotion to the One who made salvation possible.

Another problem would be a dichotomy in the way Christians approach the Scriptures. Usually, they use the New Testament for teaching, and when they are, I need emotional fulfillment to soothe the pain or encourage the joy for worship they will mostly use the book of Psalms. Williams Dyrness comes along and sees that

> *“Christians often spend most of their time studying the New Testament, occasionally making incursions into Psalms and Proverbs and sometimes into Prophets. The result is that many Christians fail to understand the full scope of God's self-revelation — they have an incomplete picture of God's purposes.”* (Dyrness 2010, 13)

The opposite of this situation is when God's purposes are understood, because the Old Testament is properly treated in terms of reading, learning, and teaching. Church leaders have a duty to help believers understand God's purposes. For example, the apostle Peter says that believers must be holy in all their conduct and quotes, "Be holy, for I am holy." (1 Peter 1:16), an expression that, in the Romanian Dumitru Cornilescu's translation, appears exactly the same four times in the Old Testament (Lev. 11:44; 11:45; 19:2 and 20:26). In this regard, it can be seen that God wants His people to be holy, and He sets Himself an example for them. In Mark Dever’s words, "The Old Testament ... shows us God's passion for holiness."(Dever 2011, 28). For new converts, hearing this can encourage them to be diligent and attentive, taking every aspect and situation of life seriously.

William Dyrness is convinced of the need to teach and learn the Old Testament, not just for the new converts and ordinary believers. He expands the area to preachers and teachers when he says, "I believe that all theologians should have a period of discipleship in the Old Testament" (Dyrness 2010, 9). Of course, it is impossible for someone to take another person beyond the point he has personally reached. For new converts and believers to come to love the Old Testament with God's teachings, characters, examples, commandments, purposes, and plans; those who teach them need to have loved it first.

The case of Andy Stanley's theology regarding the Old Testament

Walter C. Kaiser rings a bell about the false assumptions of the believers regarding the message of the Old Testament. One of them is the tendency to believe that its message is irrelevant for today's generation (Kaiser, Davids, Bruce, and Brauch 1996, 7). This sets him on the very opposite side of Andy Stanley who considers that the Old Testament message should be covered and forgotten once for all because Jesus did so with the old covenant and therefore Christians should live the new covenant. Stanley comes in stating that *John* 13:34 "A new command I give you: Love one another. As I have loved you, so you must love one another." is a command that replaces all the commandments of the Old Testament, including the Ten Commandments. He claims that

> *"Jesus issued his new commandment as a replacement for everything in the existing list. Including the big ten. Just as his new covenant replaced the old covenant, Jesus' new commandment replaced all the old commandments. Participants in the new covenant (that's Christians) are not required to obey any of the commandments found in the first part of their Bibles."* (Stanley 2019)

What he fails to see is that firstly, this new command was given by Jesus specifically to his disciples. They were to love one another with the same love as Jesus'. Secondly, this command does not in any way replace the others. It simply sets the stage for a right attitude in fulfilling the will of God toward fellow believers.

But the way he built his conception about the Old Testament message and covenant hinders him to treat its importance as The Lord Jesus did. Even though Jesus gave this new command, in relation to all the other people he sustained that there are two great commandments. And they order more than love your fellow believer. The first of them says, "Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind." (Mat 22:37) and the second says, "Thou shalt love thy neighbor as thyself." (Mat 22:39). Furthermore, Jesus said that "On these two commandments hang all the law and the prophets." (Mat 22:40). They are the base not the replacement. They set the stage for a right attitude for living and treating God and our neighbors or fellow citizens. And there more neighbors than fellow believers. This is just a small example which can lead believers and Churches astray from the attention they should pay to God's will and commandments. If Andy Stanley is mistaken in such a simple matter, one can only avoid a blind following of his teachings.

On the other hand, the apostle Paul states to Timothy that all the Scripture, and he refers to the Old Testament, "is profitable for doctrine, for reproof, for correction, for instruction in righteousness: that the man of God may be perfect" (2 Tim. 3:16-17). This verse is found in the New Testament, but it refers to all the books of the Old Testament and their content. That should have been enough proof that the Old Testament Scriptures should not be taken easily by any preacher or teacher.

Another way in which Andy Stanley is leading into a misconception stands in another of his statements,

> *"The early church moved past the old covenant—why haven't we? It took the early church more than twenty years to officially disengage from the old covenant. This is entirely understandable. First-century church leaders were Jewish. The old covenant was more than a religious framework. It had been a way of life from childhood. But thanks to the clarity of Paul, the experience of Peter, and the leadership of James, the church eventually abandoned the old for the new Jesus came to inaugurate."* (Stanley 2019)

In these words, he expresses either a gross intention to make his point or lacks the ability to see that Paul, Peter and James did not lead the Church to abandon the old worship style for the new, nor the application of the Law for the Jewish Christian community. In fact, the disciples used to attend the worship at the Temple in Jerusalem and Paul submits himself to some various Jewish customs. The only "new" was in relation to the gentiles, which were not forced to embrace the fulfilling of the Jewish rites. Stanley misconducts his statement because he omits the development of the Early Church. As the Gospel reached more and more territories the gentiles believers became a majority, while the Jews kept to a steady pace, especially after the defeat of Jerusalem in 70 AD.

Andy Stanley is not the first to propose an antithesis between the Law and Grace. Walter C. Kaiser sees Marcion as a first case who did it. Although with a very different theology, yet the outcome heads in the same direction. His teaching was that the Old Testament must be rejected, mainly because he could not see that God of the Old Testament is the same in the New Testament. Yet he used some narratives of the Old Testament to emphasize the difference between the Law and Grace (Kaiser 1991, 19).

Mark Driscoll seems to have untied the knot as he underlines the fact that,

> *"Some of the devaluation of the Old Testament may be caused by its very title. The term "old" seems to denote information that is archaic, dated, and irrelevant in comparison to the New Testament. It was the early church father Origen (185–254) who first coined the phrases Old and New Testaments. Prior to this designation, the Jews and early church would have only known what we call the Old Testament as the Law, the Prophets, and the Writings, or the Scriptures. Origen's confusion came from misunderstanding Jeremiah's use of the old and new covenants in Jeremiah 31:31. By "new," Jeremiah did not mean something detached from the prior works of God, but something renewed or fulfilled. Therefore, the new covenant is the renewal or fulfillment of the old."* (Driscoll 2008, 16)

Walter C. Kaiser adds to that our modern understanding of the word "new" and isolates the problem. He sees that if we were to understand it in the same way as the prophet Jeremiah, it would start with a renewal not a change, a renewal of the covenant "as can be seen from the use of the same Hebrew word for the 'new moon'" (Kaiser 1991, 25-26). That would dismantle Andy Stanley's idea of antagonistic positions and irreconciliation of the old covenant and the new covenant.

Gregory K. Beale comes to help the preachers and teachers by presenting what were the requirements for the contributors to his volume on the New Testament use of the Old Testament (Beale 2007, xxiv-xxv). A couple of them fit with the above observation of Walter C. Kaiser – understanding of the language used by the writers – if it is just a way of speaking because of the spiritual formation background or if they coined new ideas or terms. This was supposed to be applied especially to the New Testament writers and writings.

Some other preachers and teachers tend to give up studying the Word of God because they encounter inaccuracies or self-contradictions and to move in the area where they wait on the Holy Spirit to speak to them, Archer Gleason thinks that they "set in motion a dialectical process of degeneration and spiritual decline that impels them in the direction of increasing skepticism or

eclecticism" (Gleason 1982, 24). Usually, their stop takes place while reading and studying the Old Testament. These can be anybody, lay Christian members or preachers and teachers. One touch for them could be the example of our Lord Jesus. He believed the entire Old Testament as being true and based a lot of his teaching on it. Gleason concludes that "He who refuses to go along with the Lord in this judgment stands guilty of asserting that God can err (since Jesus is God as well as Man) and that the sovereign Creator (John 1:1-3) stands in need of instruction and correction by the finite wisdom of man." (Gleason 1982, 25).

Dinah Baah-Odoom, and Frimpong Wiafe underline the two ingredients of the Christian faith foundation: the apostles and prophets. The apostles were part of the New Testament, but the prophets were of the Old Testament. Yet overall the teaching that the apostles followed was that of Jesus – who preached his message 'entirely out of the Old Testament" (Baah-Odoom, and Wiafle 2016, 2423). This could also set an example for the nowadays preachers and teachers regarding the use of the Old Testament in preaching and teaching.

Conclusions

The use of the Old Testament Scriptures in today's teaching and preaching can be a challenge for some Christians. Sometimes it leads one to give up or renounce the validity or importance of using it, as in the case of Marcion and Andy Stanley. But there are numerous cases along in the Romanian churches who are close to the stand of Andy Stanley or something similar. And this is happening in different churches. The lack of Old Testament teaching is seen in their lifestyle emphasize of the grace and love of God. They tend to take some situations easily.

The main problem of the teaching leaders is a danger to the Christian body of believers as it can undermine the authority and inerrancy of the Scriptures. Once the thrust in the Old Testament scriptures is weakened, the next in line is the New Testament. There is a need for Christian teachers and preachers to use the Old Testament to put a solid base for their messages and doctrines. The great importance for the believers and the new converts is to see that everything comes in an orderly fashion from God, that the historical actions have been prophesied or spoken about and that there are life examples for all sort of situations.

Greatness is not the safest ingredient for a clear understanding of the Scriptures as in the case of Marcion, Andy Stanley, and many other Christian leaders. There is a need to humble oneself and do a proper exegetic and hermeneutic study to really be able to serve the Church with sound doctrines. Sometimes the modern meaning of the words can be a stumble in the way of a proper conclusion. Other times the way some terms are coined can lead into the same kind of trap.

Therefore, the best approach is to follow the example of Jesus, our Lord, his disciples, and New Testament writers. That challenges the preachers and the teachers to draw closer to the study and learning of the Old Testament scriptures and how they relate to the New Testament teachings and the Christian life.

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Understanding the Family Role in Shaping a Broken Identity

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ABSTRACT: The family plays a highlighted role in the formation of positive and negative emotions in individuals. Previous studies had described the role of the family in shaping a broken identity, so having this in mind, we were trying to study the family role in the formation of feelings of failure. Participants were selected based on three criteria: clients' claim, therapist's diagnosis, and failure emotion test. Interviews went on to get to theoretical saturation (65 people). The subjects of the study were purposefully selected (using quota sampling) from psychology clinics in 5 regions of Tehran. Subjects were selected from 25 to 45-year-old individuals. Semi-structured interviews were used to collect data, and thematic analysis was used to interpret and analyze the data. Findings indicate that families have a reinforcing and causal role in the experiences of failure, the family tries to control the individual by imposing mental and objective restrictions, using mechanisms such as intimidation, humiliation, analogy, giving privileges, rejection, labeling, guilt, or fear induction. On the other hand, some families seize opportunities for the development of children (especially women) by instilling traditional beliefs, leading to the formation of a broken identity in the individual. Extreme rejection and control by family members breed feelings of hopelessness, alienation, and abandonment, and failure in general. Some of the strategies used by these individuals are family avoidance, immigration, scheming, self-blaming, rumination, regret, and anger.

KEYWORDS: feelings of failure, broken identity, family, rejection, failure

Introduction and Statement of the problem

Mental health is a state of well-being in which a person recognizes his or her capability and uses it effectively and useful for society, and has the full ability to play social, psychological, and physical roles (Robinson 2019). Therefore, in order to develop, communities look to pursue policies related to mental health and the prediction of mental illness (Ganji 2011). Emotions are the society pillar and form the structure of the bond. Emotions have always been studied as individual phenomena and social analysis of emotional causes and consequences such as failure in studies had been left out. The results of the studies emphasize on the impact of the emotions social dimension (Rouhani et al. 2015).

Emotions are often negative in Iran (Navabakhsh & Alibakhshi 2005, 81). According to some official statistics (State Welfare Organization of Iran), Iran is a frustrated and sad society (Mirzadeh 2017, Gallup World Emotional Report 2016). Studies indicate that mental disorders prevalence in Iran is about 32% (Moulavi & Khaleghi 2018). Negative emotions such as anger, aggression, fury, depression and … are more visible in Iranians daily life. These negative emotions affect the most individual form of daily life as well as the tiniest ones. Hence, profound study of emotions, especially the negative ones (such as failure) is important because it disrupts interactions and social solidarity. Emotions are one of the most significant elements of identity, which are neither an internal experience nor the product of extrinsic society, but are the creature of interaction of them both. Individuals' life experience is full of pleasant and unpleasant experiences which are mostly within emotions framework and are formed as a result of social actions with positive and negative orientations; so, the genesis of negative emotions should be searched in social realities.

Negative emotions and mental disorders are not an individual issue but an interactive process involving all family members. Studies indicate the function of the family, including behavioral disorders and alcohol abuse (Maynard 1997), parents' separation (Johnson,

Thorngren & Smith 2001) and parenting styles (Schwartz, Tigpen & Montgomery 2006) have a profound impact on individuals' mental health.

The two institutions of family and school form the failure identity in individuals (Glaser 2020; Barber et al. 1992; Whit Bean 1992; Quoted by Man K. Weining 2012). The share of family in children and adolescents' social and psychological harm is more than school (Negravi 2001). Various studies have shown the relationship between family and anxiety (Goody Kunst and Nishida 2001; Kouroshnia 2006), social anxiety (Doronto, Nishida, and Nakayama and 2005), responsibility, self-concept, religious orientation and hope for the future (Golchin et al. 2007) depression (Kouroshnia 2006) and its positive relationship with self-esteem (Huang 1999), between optimal family performance and children's stubbornness (Sharifi, Arizi and Namdari 2005), behavior control and resilience against drug use (Javadi et al. 2011) and quality of life (Rahimi 2007).

Helplessness, inability to pursue commitments and building intimate relationships, as well as feelings of worthlessness and rejection are among the characteristics of failed people who are irresponsible and suffer anxiety and depression (Whit Bean 1992; Quoted by Man Ki Wefning 2012). The broken identity is caused by family background and parenting styles (Barber et al. 1992; Whit Bean 1992; quoted by Man K. Weining 2012).

In general, the family is an important social institution in creating mental health for the individual and the society. The family has both positive and negative role on human life quality and can reduce the sense of self-worth and gradually develop a sense of helplessness and a sense of victimhood, resulting in a sense of failure that leads to a failed identity in individuals (derived from Zalizadeh and Sahebi 2014).

The personality and upbringing characteristics of the family are important in forming and maintaining an intimate relationship and the breakdown of emotional relationships (Fardis 2007), low socioeconomic status, experiences in the family and during childhood (childhood trauma) (Linskat & Venus 2013; Stellen and Der Ven, Rutten and Connor-Orientalism 2013) are the main factors shaping feeling of failure. This study sought to understand the role of the family in the formation of feeling of failure in individuals.

Research Methods

The research method of this study is qualitative and semi-structured interview technique is used in data collection and thematic analysis is used in the interpretation of data analysis. The sampling method of this research is quota. Participants include 65 people. To find the subjects for the study, the researchers went to psychology clinics. Thus, 5 clinics in Tehran were purposefully selected in the following regions: center of region 6, east of region 8, north of region 1, west of region 5, south of region 18. At first, the therapists with a doctorate degree in clinical psychology were interviewed. With the clients' personal consent, the therapists introduced us to the clients who, after performing a test of failure and based on the therapists' diagnosis, were having a feeling of failure.

The collection of findings continued to get to the theoretical saturation of each region, so 10 to 15 interviews were conducted in each region. The subjects of this study are individuals who have been diagnosed with three main criteria: 1- client's claim, 2- therapist diagnosis, 3- feeling failure test. Participants were selected from 25-45-year-old individuals.

Research Findings

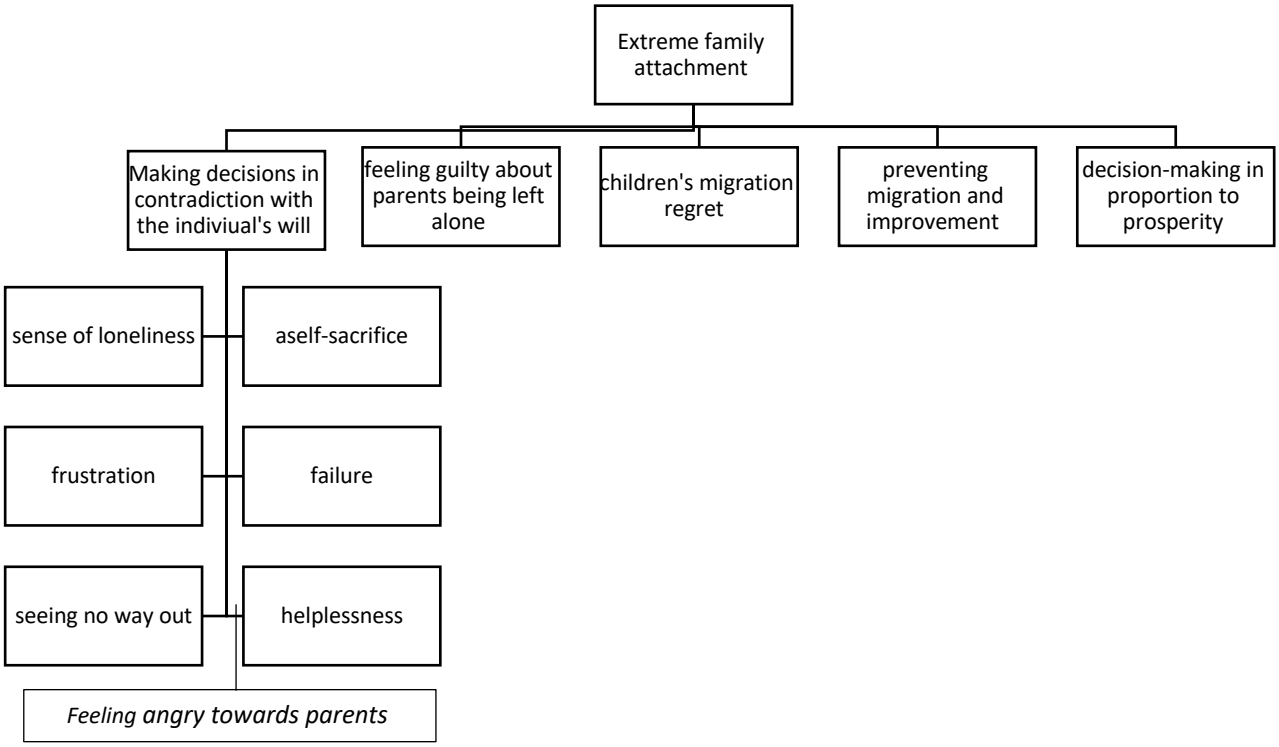
1. Restrictions imposed by the family

According to the subjects, the family is one of the main obstacles and factors in the formation of failure feelings in individuals.

1.1. Extreme dependence on family

Dependence on the family is one of the main barriers to decision-making in proportion to prosperity. Subjects who are extremely dependent on their families refuse to migrate for the sake of improvement. While they long to go, this dependence has taken away their power of action. Many give up because of feeling guilty about their parents being left alone. Because they always seek the extreme approval of their parents, they make decisions about marriage, choosing their major, and other key issues that are somehow different or incompatible with their goals and desires. These decisions intensify the causes of failure, frustration, feelings of hopelessness, loneliness, and self-sacrifice. They find themselves in a predicament from which there is no escape or way out. These kinds of unwanted decisions shape the anger in subjects' hearts towards their parents. Lack of self-confidence, inability to make decisions, anxiety and fear, questioning individual independence, interfering in personal life and dissatisfaction in married life are the result of this dependence.

> *"I did not have the feeling (emphasis) to stay in that house without my mother. Until the age of 16, I slept next to my mother because I was so much attached to her. I have nothing to do ... (he says quickly) (tears)."* (Seyed)

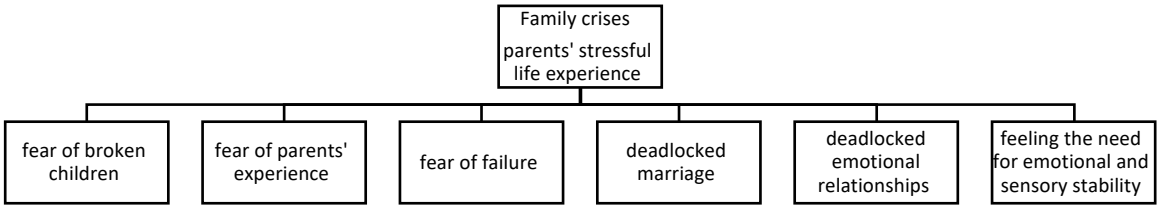


1.2. Stressful family

Family tensions and crises are vital factors in the formation of failure feelings in some participants. One of the main reasons for the breakdown of their emotional relationships and marriage is the experience of their parents' married life. They carry the fear of failure along with the repetition of their parents' experience and are afraid of raising injured children like themselves. This family experience has taken their hope and belief in the possibility of forming a healthy relationship away and as a result due to the fear of repeating their parents' mistakes, they do not enter into serious and long lasting relationships while they are strongly in need of a companion as well as emotional and sexual stability, all the time. Some seek to smooth out their sense of need through transient and cross-sectional relationships. As a consequence of choosing this lifestyle, they are rejected and labelled by their family of origin. The pressures our clients endured in family life have predisposed them to show impulsive and aggressive behaviors that have disrupted their friendly, social, and work-related relationships.

"When I was 16, my parents got divorced. I was hurt badly ...I guess I won't get married seeing my mom and dad's life. They, so called, loved each other at first but then everything ended in fights and beatings day-to-day. We were out of touch for a while, even with my dad, I feel like he has left us alone. We are left." (Sahel)

Stressful family



1.3. Family with old thoughts

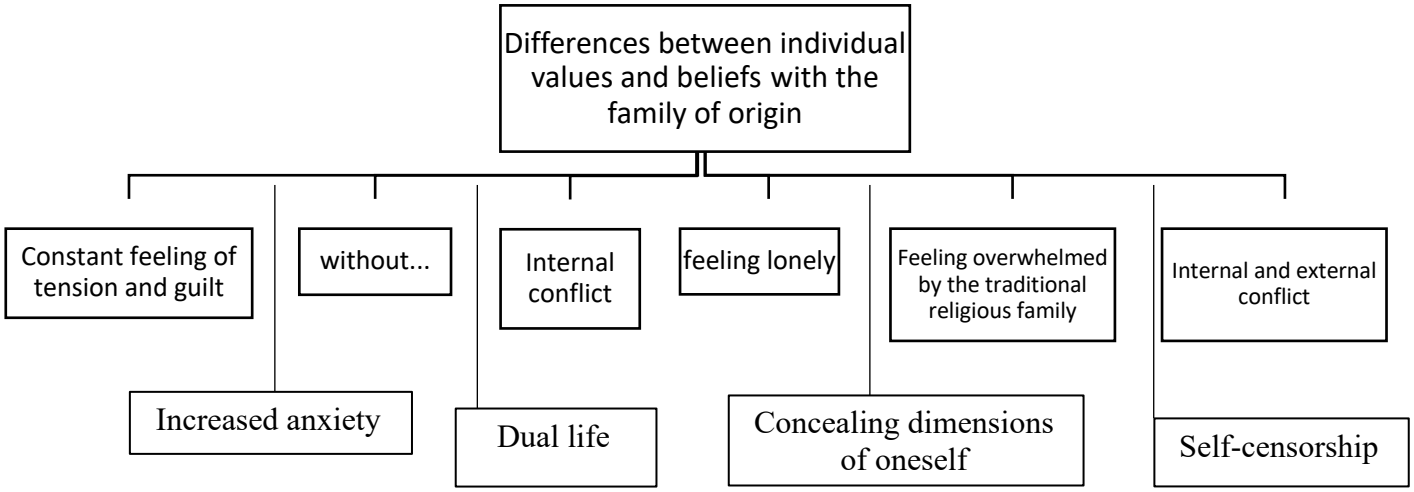
The difference in one's values and beliefs with one's family are among the causes of internal and external conflicts. Participants with a traditional-religious family find their beliefs a burden. These subjects feel very lonely, internally conflicted and having no one to talk to. Not being able to meet the demands of their families, they have a constant sense of tension and guilt. Self-censorship is one of the main mechanisms these people use in confronting their family of origin, so they not only do not express themselves but their emotional partners also hide some of their dimensions. They lead a double life that results in anxiety.

The family impact on the formation of failure feelings has sometimes been direct. Individuals withdraw opportunities and chances for improvement in order to confront the family perfectionist and competitive beliefs and principals or the family directly raises the children with feelings of failure, which means that they limit children's mentality and talents by cultivating limited good principals and non-developmental stereotypes.

"In my family, especially on my mother side, they got stuck in some issues. I keep saying, guys, you have to do this. Do that. I don't know why they don't move at all." (Kobra)

"As my family is traditional-religious, I have to censor myself in front of them, I don't want to, but I have to be less like myself. Even my wife pretends to be accepted by them and make fewer stories, their minds are rusty. They don't let us live comfortably. All my life is tension, harassment, torture. They don't allow us to be happy. They are interfering. They taunt my wife." (Hadi)

Family with old thoughts



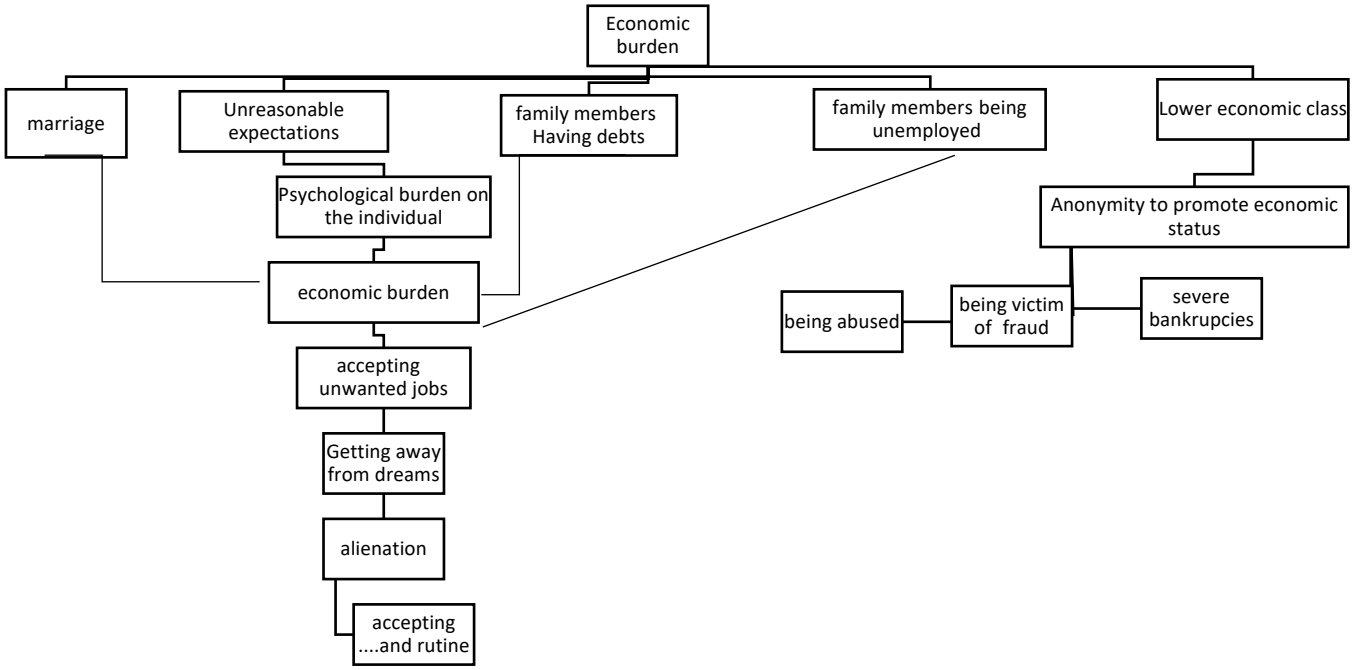
1.4. Family as an economic burden

The subjects of the study, who come from families with a weaker economic class, usually try to change their economic situation so quickly that this haste cost them dearly and some experiences of theirs like severe bankruptcies, fraud, economic and legal abuse can be mentioned as the samples. That is, after gaining a minimum of economic status by the family of origin, the participant reaches a position that he/ she had not experienced before. Large families' children, especially with the aim of being noticed and loved, make concessions that are not very wise and put plenty of economic and psychological pressure on them. Another type includes married individuals who, due to economic constraints, are forced to endure a job with which they are not satisfied and somehow give up their dreams. In this way, the individual suffers from a kind of alienation and finds her/himself lost in everyday and repetitive life.

"After my dad's death, his loans took me away from my goal." (Amin.K)

"My father's financial situation was like a stick on my head. It was a pity for us."(Kobra)

Family as an economic burden:



1.5. Not being understood by the family of origin for separation

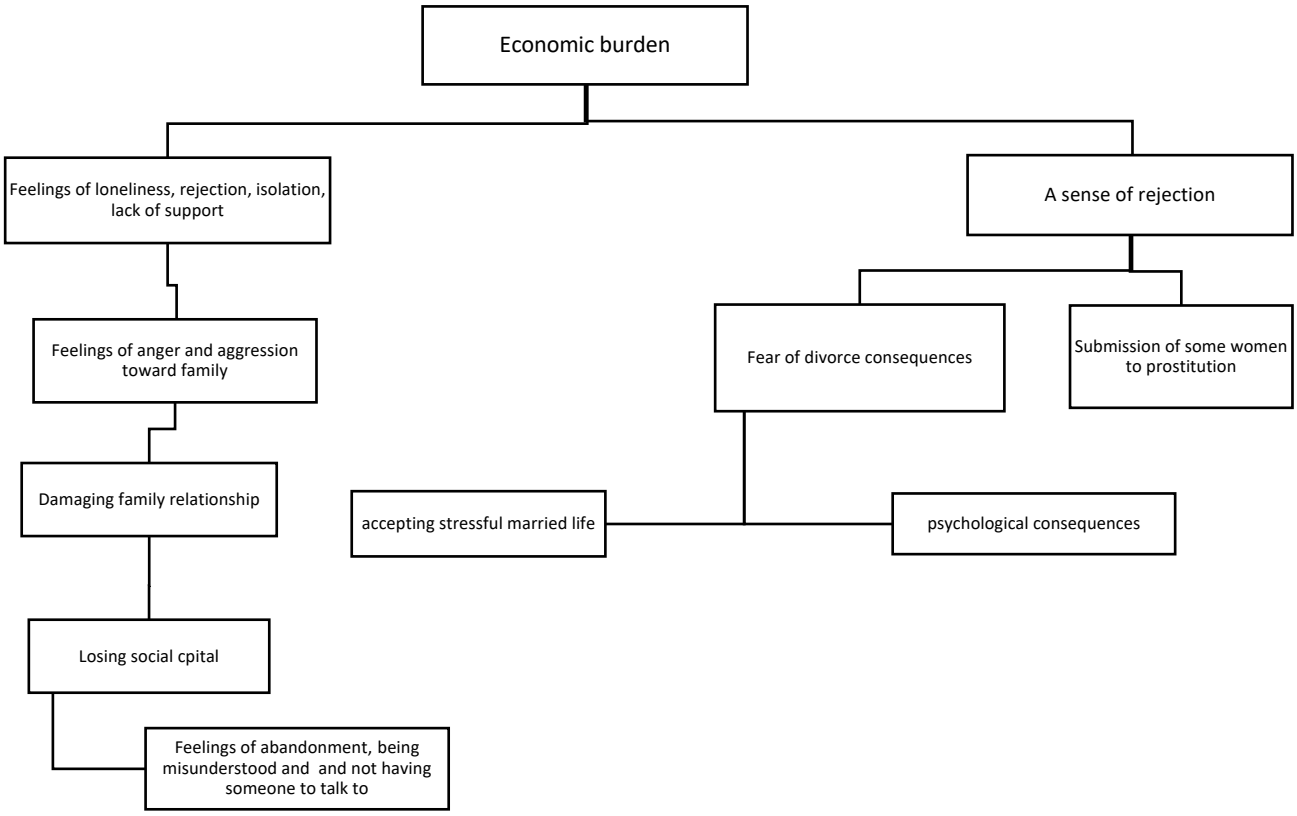
Many admitted that their family of origin did not support them for separation. Women, meanwhile, are more likely to be treated unfairly. This action itself is followed by feelings of loneliness, rejection, isolation, lack of support and support. Subjects who have experienced this are more likely to feel anger and blame towards the family. Their relationships with their families are severely damaged, so they lose a large amount of their social capital**.** The main consequences of this story are feelings of abandonment, being misunderstood, and not having someone to talk to. Some of these women even believe that the rejection by their families was the reason for their prostitution. Many women remain in a stressful married life with serious psychological consequences, fearing the repercussions after divorce and the rejection by their relatives.

"I'm afraid of my family's behavior. Since then, this has made me just put up with everything and stay with my spouse." (Khadijeh)

Family rejection after divorce has brought the displacement experience to some women. For example, the experience of living in a park has popped a sense of loneliness and being alone into their minds.

> *"They told me 'Go back to your life.' They didn't understand what I was going through. Since, I didn't say anything, but I was in a bad mood... Maybe if my mom and dad didn't reject me, I wouldn't be here now. Maybe if I hadn't been humiliated when I was a kid by saying they didn't like me, I wouldn't be here now. Maybe if they hadn't discriminated between me and my bros, I wouldn't be here now ... I didn't return. My parents did not let me in. I stayed in the park for three nights." (*Zohreh)

Not being understood by the family of origin for separation



1.6. High level of family expectations

The families of some subjects bring up their children as all the time indebted by their perfectionist training methods. In a way that gaining parents' love and attention is due to fulfilling their desires and goals. These families bring up children with a sense of self-blame who, despite all their attempts, are still far from their parents' ideals; this fuels the children's sense of powerlessness and incapability, itself. Due to the heavy burden of expectations and the inability to meet the ideals, some children begin to be passive and not to try any more but they carry the anxiety with them all the time.

The high level of parental expectations means that the parents force their child to participate in any competition and want their child to be the best in everything he/she does. Unrealistic expectations upset the child.

> *"I did these things many times for the others. They say "do it". You are the good boy. You do not grow a so-called long beard. Other people are effective too. Well, these put pressure on me."* (Arash)

As a result of high parental expectations, feelings of incompleteness and inadequacy are formed in the subjects to the extent that they see their lives as a constant effort to prove themselves and their abilities to their parents.

> *"In my dream, I wished that someone like me, exactly like me, would come and I would go to an island by myself and one would come who would be a good girl and grants all the wishes of her parents, teachers and others. Someone who would be great and let me go free. Let me go to an island to be alone."* (Saideh)

1.7. Family members' addiction

Subjects with addicted families were more likely to become addicted. This addiction causes them to be rejected and lose their social prestige in such a way that they become more and more trapped in their mistakes and choices due to the reduction of social relations. Some people consider their addiction to be due to their family history and somehow try to neutralize their actions with this perception. The experience of family members injured in war has been the underlying factor for the desire of addiction in this group. Addiction is considered as a way to forget the damage done to the family, and they justify their sense of being neglected and lonely under the pretext of other members focusing on the injured one. One of the consequences of addiction is losing job opportunities. This group attributes their failures to addiction and believes that any attempt to quit is useless because they have missed opportunities and practically it is too late. Others still refer to these addicted people as broken and negative identities, so they see no way to change this situation.

> *"I forgot to say that after my brother became veteran; my dad became addicted to opium. Then my brother got involved to get better. It got to the point that addiction became our family problem. I was following their example ... I wanted to go to work. Well, I was addicted and nobody trusted me. When my sisters didn't trust me, the employer didn't either."* (Bagher)

1.7.1. Parental addiction

Family members' addiction lowers the status of participants among the others, especially their spouse, resulting in a sense of helplessness. This group considers any kind of domestic violence and insult due to the addiction of the family of origin and believes that in other circumstances they did not tolerate such threats and humiliations. Having broken families and addicted family members creates a feeling of helplessness and bewilderment.

> *"I remember once I told my father, who was addicted, that if you were normal, this man wouldn't dare to treat me like this. I was right. As soon as he found out I had no back, my family was in a mess. They don't support me. He caught me alone for a divorce."* (Mansoureh)

1.7.2. Spouses' addiction

The addiction of a spouse has taken away the interviewees' opportunity for peace and progress. Despite their severe efforts, they sometimes believe that the shortcomings and problems in their lives are due to their lack of work so they have a kind of self-blame.

> *"We didn't move forward at all. Even a little, I don't know if it's because of my life, because of my circumstances, because of my lack of effort, because of the conditions of our country, because of my husband's addiction."* (Khadijeh)

> *"We were spurious, we were. I had no feelings or relationships and by chance I fell in love. Of course, I didn't know I was in love, but I couldn't continue anymore. He was addicted, too."* (Shirin)

1.8. Lack of training to face failure by the family

Many have complained about not learning failure skills in the family and have admitted that they have paid a lot of psychological and social costs which could have been prevented if they had learned these skills. In other words, they blame their family's parenting style for their failure experiences.

> *"I was hit hard because I didn't know how to fail. I had everything when I was a kid. The family had high expectations for whatever I wanted. When I got away from my goal, I got badly hurt. I felt defeated."* (Rosa)

2. Involvement of families

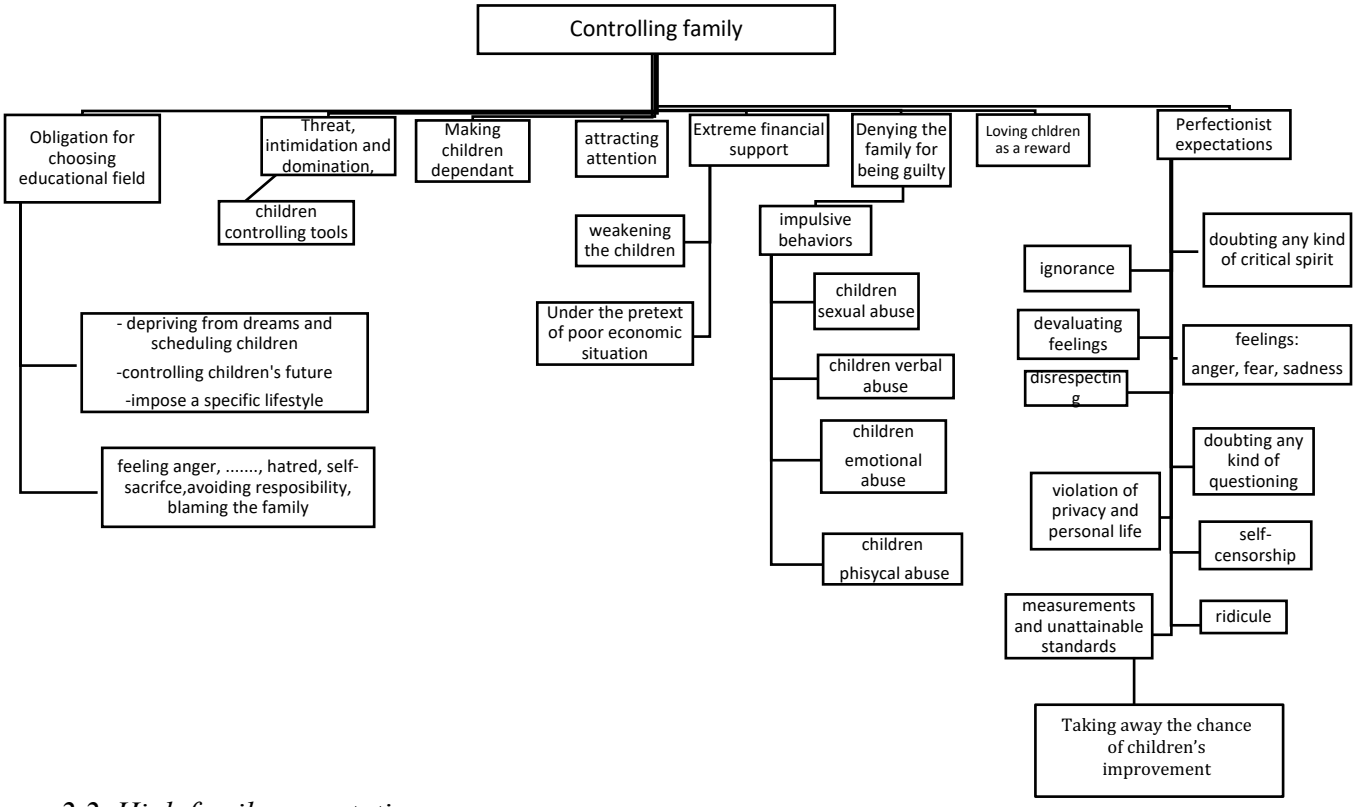
2.1. Controlling family

The controlling family scrutinizes the child's appearance, social interactions, desires, thoughts, clothing, hobbies, and social life. In a way, the possibility and chance of growth would have been deprived from the child. These families have perfectionist expectations and unattainable standards from their children which put them under pressure.

These families have killed any kind of questioning and critical spirit in the subjects. By forbidding the members' expressions of their feelings (anger, fear, and sadness), they suppress these emotions and promote self-censorship, which is often accompanied by ridicule, disregarding, and devaluation of the feelings. This disrespect usually leads to violation of privacy and the most private layers of individuals' lives. Many of our research subjects' families do not consider any independency for their children. They look at love as a reward. Domination, intimidation and threat are the main tools to control subjects. The most important mechanism for these families to control their children is to keep them dependent and incapacitated. Under the pretext of help, support and poor economic situation they weaken the children to be their pensioner so that they can maintain their dominance. They usually control their children's lives and privacy by the mechanism of cutting off these privileges. Many of our subjects expressed their peace of mind by staying away from their family. In many conflicts, subjects have explained that the family is reluctant to admit their guilt and fault, and deal with individuals using impulsive behaviors along with sexual, verbal, physical, and emotional abuse.

These families force individuals to choose their field in university and high school. With this mechanism, they are moved away from their desires and mental planning for the future, and the family determines other ways for their future. They use this method to impose their approved lifestyle on their child, which leads to the formation of blaming and feelings of anger towards the family. Grudge and anger accompany the individual and the result is cutting and distance from the parents. So that subjects avoid responsibility for their subsequent mistakes in life using self-sacrifice approach. They point their finger of blame at the family and blame the family for all their misery and failures.

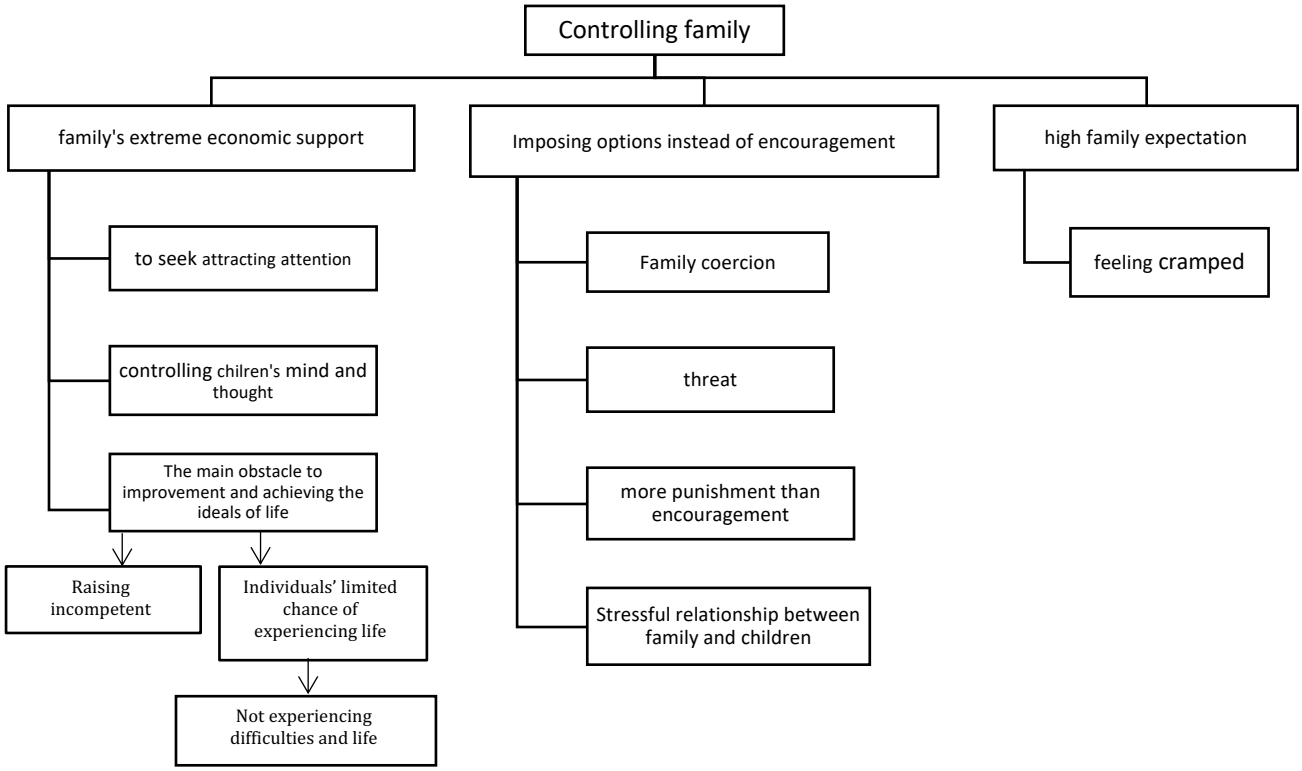
Controller family



2.2. High family expectations

Families sometimes put pressure on subjects with their expectations and practically make them feel cramped.

> *"My upbringing was in the way that everything should be the best. My mother always told us that we had to be the best. You see, my English is good, but I do not speak very often for the fear of making a mistake. It's the same all over my life."* (Arash)



2.3. Imposing options instead of encouraging

Subjects with suppressive families have experienced family coercion and pressure. Their family uses the mechanism of intimidation and punishment far more than encouragement and positive privileges. As a result, a tense relationship develops between this type of families and their children.

2.4. Extreme economic support

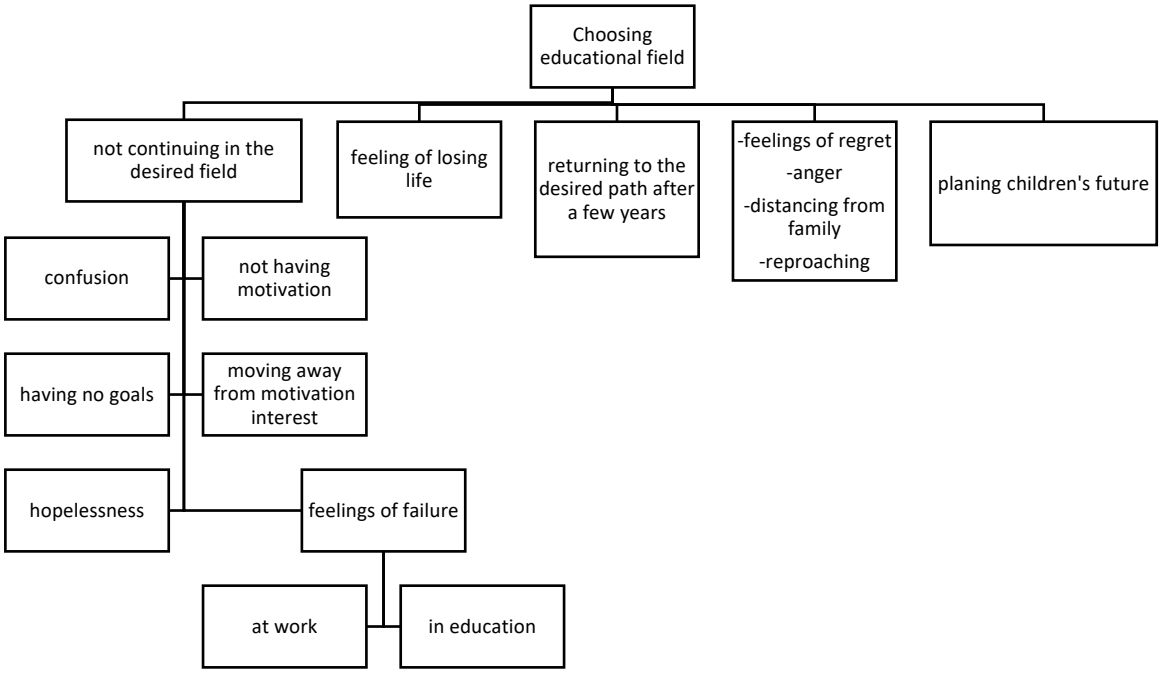
According to the subjects, extreme economic support is a kind of buying children's attention, mind and thought and is the main obstacle to improvement and achieving their life ideals. The result of this kind of upbringing is incompetent and immature children; individuals who have not got the chance to experience life and were not the lucky enough to learn about the difficulties and changes of life.

> *"We have always had money, me and my brother. My mom says 'work is for animals' ... One of the dreams I want to achieve is to get rich. I'd like to make money easier. (She laughs) I don't like to work from morning till night"* (Sahel)

2.5. Interfering in the choice of field and educational affairs

Many find themselves under family pressure to choose a field, model and plan for their future so that families strongly discourage their children from choosing disciplines such as human science and vocational courses. The result of this action is a feeling of regret, anger, distance from family and reproaching. Something that some people think has led them astray. After a few years, individuals usually try to get back on the track that their parents initially withheld from them. Not continuing education in the desired field causes feelings of hopelessness, aimlessness, confusion, and as a result, feelings of failure in the field of education and even work would be followed. Moving away from this interest often takes away the individuals' motivation and reason to try; it takes away something like the spirit of life.

> *"I said I'm going to study physical education. The family objected. My father objected by saying no that; I hate him, he deprived me."* (Anna)



2.6. Threat and Domination

One of the main mechanisms that families employ to maintain control over different subjects is threatening to take away their children's privileges, so that they live in a constant state of fear and apprehension. This fear extends beyond family relationships to all individuals. Fear of losing love and attention; privileges assigned by parents weigh on them well into adulthood, and have double the adverse effect on their emotional relationships. Parents' threats cause a kind of self-rejection in individuals that plunges them further into isolation.

> *"When I didn't have as much financial independence, my father was basically my boss. The more financially independent I become, my father realizes there are aspects of my life, which he cannot dominate. He doesn't have the power anymore."* (Marjan)

2.7. Hinder the flourishing of talent

Families' trapping their children's wings is what many activists call it. This experience is more common amongst upper or upper middle-class families. Parents who cannot tolerate to see their children have a tough time, are raising incompetent children unable to do the most basic things in their personal lives, they will experience severe stress and difficulties in their married life. There are only two possible outcomes to their marriages, separation, a stressful relationship or taking responsibility and trying to stand on their own, because they have not been prepared for cohabitating with others. Another defect of this kind of upbringing is ending up with irresponsible and dependent children.

> *"I'm telling you, my father wasn't the type to give me any kind of responsibility, he did everything himself."* – Massoud

2.7.1. Extreme emotional dependency

Some miss out on social situations due to their extreme emotional attachment to the family. For example, they slept with their parents for many years as teenagers. This lack of independence has caused them to always define their identity with that of another, and not consider themselves an independent individual. This feeling is followed by disorientation and a type of alienation. These groups have stated that they cared more about the interests of others than their own, to the extent that in some cases it resembled a manner of self-sacrifice.

> *"I didn't feel like (emphasizes) staying at home without my mother. I slept next to my mother until I was 16 because I was dependent on her. Anyway (Says sharply) (tears)"* – Seyed

2.7.2. Preventing investment

Many have stated that economically, families have deprived them of their chances for financial growth and advancement. In other words, families are the main inhibitors of achieving financial independence, especially women, who are effected more tragically and their families have intentionally or unintentionally destroyed their chance for independence.

> *"Talking about investment, I really wanted to get something for myself. My family was insistent that I don't need it, asking me why I want it anyway. They believed that it had no use for me; it was useless; and since I was not a boy, I did not need to have any property of my own. So I'd better save my money in a bank because it's safer. They constantly made me feel like I'm going to fail."* (Elham)

2.7.3. Being the barrier to doing military service

In this study, interviewees who have high-income families are more likely to be raised in an unrealistic and fantasy environment. Families have confined them in an artificial world from which all factors of danger, adversity, and difficulty of social life have been removed. Not doing military service is one example. As a result of the compassion and irrational support of families,

some subjects have missed opportunities such as immigration, finding a suitable job, and marriage.

> *"Should I do military service? They didn't let me decide. My time was wasted. And they were my so-called intellectual family. Hoping that military service would be bought but it didn't work out. I blame my mum and dad a lot, as they didn't let it happen. My parents trapped my wings."* (Ali K)

Not doing military service due to the family obligation, has imposed restrictions on subjects that have kept them away from their desires and plans in life. Finding the opportunity to leave the country and emigrate impossible, the impossibility of finding their desired job due to not having an end-of-service card, the loss of emotional relationships and chances of marriage have led to the delay in childbearing, as a result.

> *"My parents caused a kind of conflict within us. I'd consider myself a failure even if I had a billion dollars now; since I wanted to be a father as soon as I could. I'm not even married yet ... I wanted to work somewhere. After they found out that I haven't done my military service, they rejected me. I told my parents 'look, you didn't let me go'"* (Parham)

2.7.4. Preventing employment

Many interviewees complain about family restrictions on getting a job. Among them, due to cultural stereotypes, the girls have experienced this the most and always recall it with a sense of regret.

> *"Working was hard for me for a while. My family had restrictions for me. The older I got, the less they could force me."* (Zeynab)

> *"They say, 'Well, if we'd let you go to work, what specialty would you depend on?' Come on, is specialty gained at home being buried in books? They didn't let me work. Expertise is acquired through work.*" (Meysam)

2.7.5. Preventing children from migration

Many families have prevented their children from migrating under the pretext of taking care of them, uncertain future, loneliness, and so on. The result is men and women who believe they would have a better future if they had migrated. Girls have experienced this limitation more than boys.

> *"I had a scholarship. I wanted to emigrate, they didn't allow. I wanted to go see my friends, they didn't allow. I wanted to ... they didn't allow."* (Elaheh)

2.7.6. Preventing marriage and romantic relationships

The participants' parents consider their children mentally immature. These parents try to make their way by being stubborn and sulky. Their family often rejects children, who seek to start a relationship without their approval. This greatly affects the quality of romantic relationships between couples. Severe parental dependence has caused children anxiety. Subjects have stated that their parents have always taken extreme care of them. Through these extreme oppositions in relationships, they cause their children vulnerability and stress.

> *"I was hurt emotionally. I was a wreck for maybe two or three years. The mark it left on me will be there forever."* (Mahmood)

2.7.7. Inducing a sense of fear

Families have tried to limit their children socially by instilling fear and apprehension of society. Intimidating women from the outside world is considered a way of violence that has consequences such as depression, disorders and anxiety. These types deprive themselves of many social standards and sink deeper and deeper into their shell.

"My family instilled a series of fears in me. These fears should not have been in me" (Hamid)
The imposition of a false fear of the impossibility of success and progress has alienated subjects from social areas and activities other than the traditional role of a woman. This departure is voluntary and happens under control of the person's mental structure. It is much more difficult for women who have been brought up for employment and social activities to tolerate this isolation.

> *"I think the concern of most women around me, and myself, is that we have a fear of entering society. It's because of the way we were brought up. Our families scare women of society. It becomes more difficult for us, especially after marriage."* (Cobra)

2.7.7.1. Induction of the belief of women's inability

One of the existing educational shortcomings that targets women is recognizing girls as the second sex and depriving them of numerous opportunities, humiliating their thoughts, ideas and talents. In a manner that it even burns their hopes and kills their self-confidence. These traditional and patriarchal stereotypes in practice deprive women of the opportunity to participate. Using concepts such as "a girl's dignity is death", "women are gentle", etc. is a romantic image based on emotional patterns in which girls are less rational and more emotional. All of these factors have led to the restriction of women and girls by families.

Indoctrination of the idea that women are fragile, prepares subjects to accept the need for men and to think of themselves as secondary.

> *"They always forbade me saying:' you're just a girl. If you want to go and do it yourself, it will be difficult for you. They will harass you. 'The community is full of wolves.' They scared me so that I did nothing. 'Don't go near it.' They made me fear everything... 'You're a woman. You cannot make it. You cannot handle things on your own'."* (Elham)

2.7.8. Stigma of mental disorder

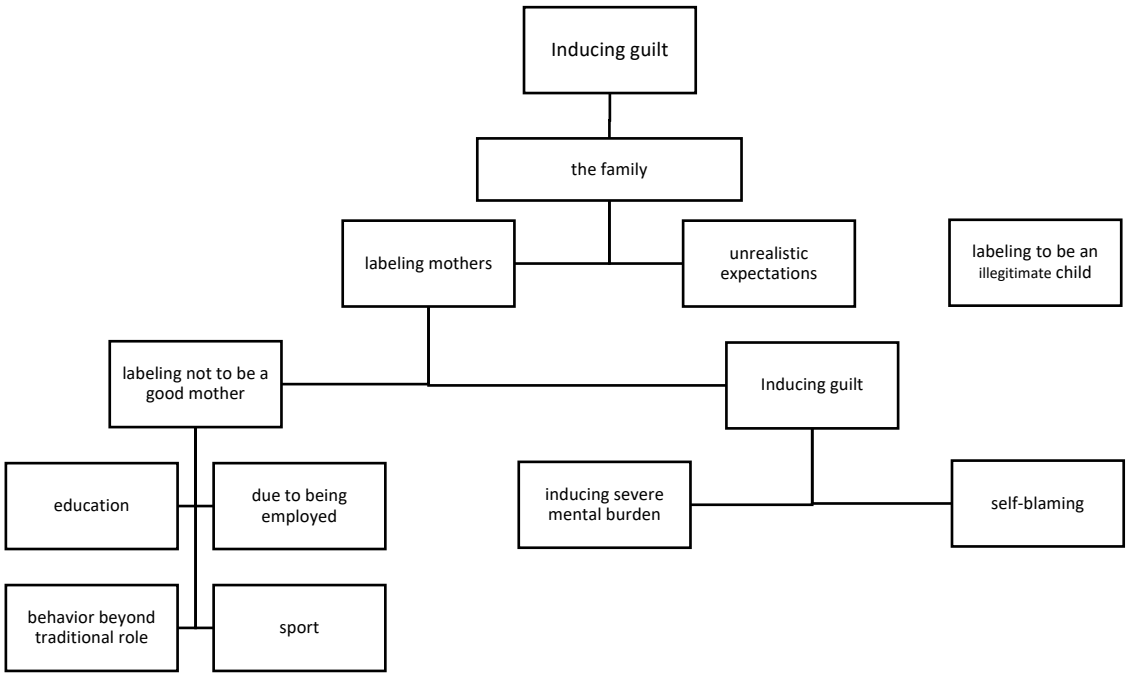
Labeling people of mental disorder is very common. This makes subjects hide their mental illness, and prevents them from seeking treatment. These labels cause more stress and escalates their mental illness. This is similar to the approach that society takes towards minorities. The irresponsibility and incompetence of these subjects makes them feel deficient. As a result, under the influence of social stigmas, they consider themselves inferior to others.

> *"Throughout my childhood and teenage years, even now my family is taking me to a counselor and a psychiatrist. I remember I was four or five years old, maybe the fact that I went to the counselor all the time made me suspect that there's was a problem. It seems that from the beginning, from their point of view, there was something wrong with me."* (Zahra)

2.7.9. Induce guilt

Inducing guilt is one of the most oppressive behaviors that the society especially families inflict on individuals. This is a bitter feeling that society imposes on individuals. The child is usually questioned and stigmatized by the family for being immoral, ignorant and ungrateful. Families often have unrealistic expectations of their children, such as nursing and extreme care, which, if not met cause them to be accused of being irresponsible and heartless. Another induction of guilt occurs in mothers by imposing that they do not have proper principles for parenting, or being misunderstood by their spouse because they are employed or continuing their education, not receiving any support. The first principle that is questioned is their motherhood. This stigma puts a heavy psychological burden on women and always rouses a kind of self-blame in them. This pain always accompanies mothers whenever they do something beyond their traditional duties such as studying, employment, sports, etc. She is always facing the question of whether she is a good mother or not? This is the feeling that is reflected on the mother by her husband and others.

Inducing guilt:

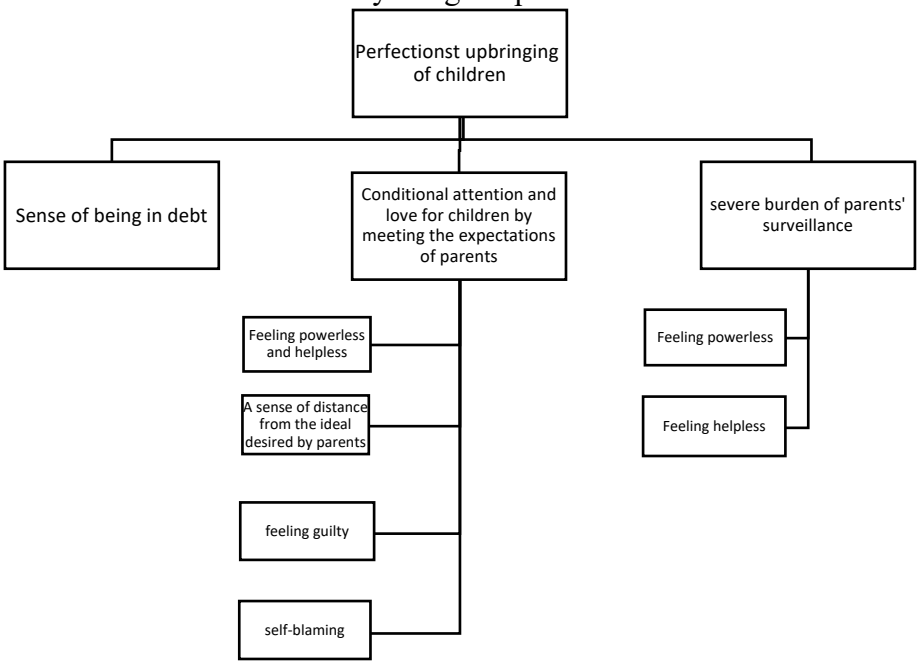


2.7.9.1. Unrealistic illustration of perfect children

Parent's high expectations have made every effort made by the subjects seem insufficient and erroneous. Inducing guilt through upbringing traditions is a system of parental exploitation. They blame this upbringing discipline responsible for their feelings of frustration.

> *"There has always been a phenomenon called 'other people's children', I have always had the feeling of discouragement by how other people's children serve their families and I don't, so I'm a useless person because I don't serve. I'm such an unworthy child. There is a sense of disappointment that my family has instilled in me by saying that if you do this, I will do something for you or something."* (Soraya)

Family's high expectations:



2.7.9.2. Inducing a sense of being the wrong doer

Some parents criticize their child's every move. These constant rejections impose a strange psychological burden on the individual, who considers his every choice and behavior to be wrong and inappropriate.

> *"They're used to making you feel guilty. I always feel like a bad person and child."* (Muhammad)

2.7.9.3. Parents pretending to be sick

Some subjects' parents pretend to be sick and weak in order to get their children's attention. These dramatic behaviors impose a heavy sense of guilt on them. In reality, these actions are a means of controlling children.

> *"They gave me the feeling of being negative so much (emphasizes with disgust), and look where it has driven me. In previous rows, my mom would faint in front of me. I'd do nothing. You know why? Since she was acting; it was her show off."* (Amin)

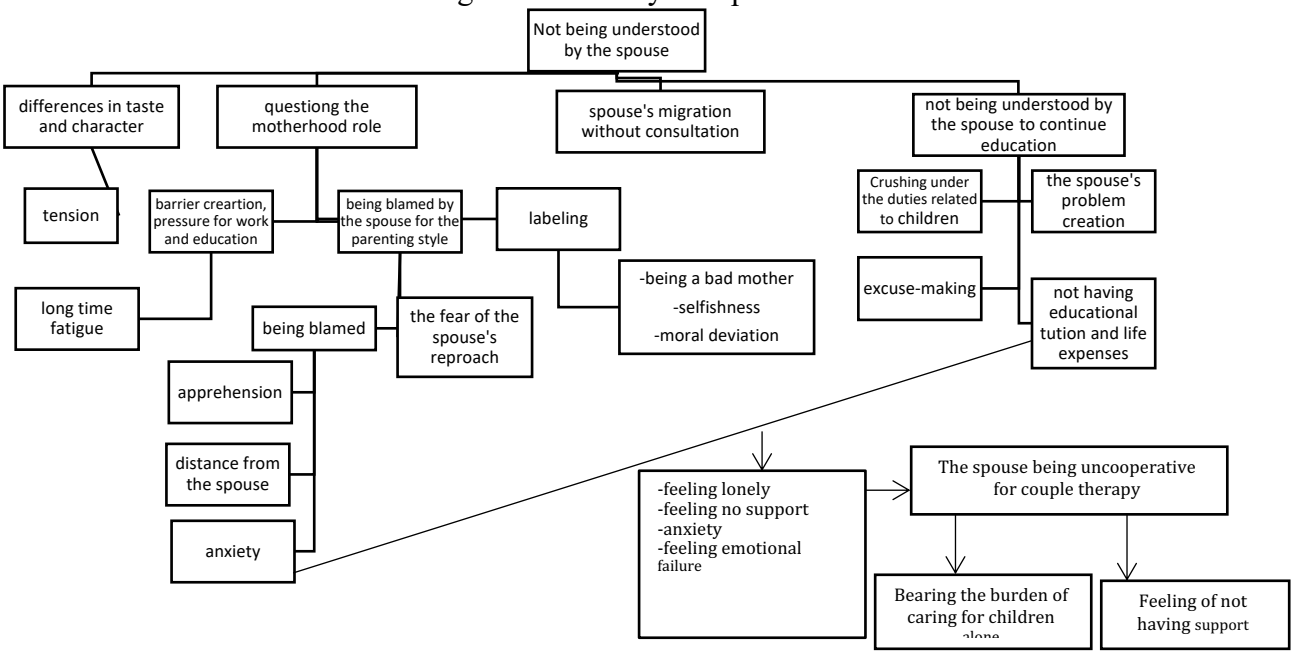
2.7.10. Married life problems

2.7.10.1. Being misunderstood by the spouse

Lack of understanding by the spouse is one of the main causes of loneliness, lack of support and anxiety. This group believes they are suffering from emotional failure. They see no reason to try anymore. Many long counseling sessions have taken place without the presence of one spouse who has taken on the burden of improving the relationship. Their spouses, who refused to attend couples therapy sessions, said the subjects somehow did not have their backs when facing difficulties, claiming that they were carrying the burden of raising and caring for their children alone.

> *"It's very hard. I remember the night before my exam, my little boy Radin had diarrhea and was vomiting. On one hand I was studying, on the other hand I had a travel blanket around my son; I was walking around the house like that. It was a difficult situation. My husband did not understand the situation and I was alone."* (Azadeh)

Not being understood by the spouse:



2.7.10.2. Spouse migration without subject consent

Partners of a group of participants migrated to another city without coordination and decided to work in that city.

> *"My husband has gone to the town and we have no life at all. We have to overlook many things. He thought of himself. He didn't think of me. He didn't understand me."* (Andia)

2.7.10.3. Questioning the subject's role as a mother

Some participants were questioned by their spouse due to their employment and continuing education. They have been labeled as being bad mothers, irresponsible, selfish, morally deviant, etc., which has increased the pressures of work and education for them. In other words, it has imposed long-term fatigue on the person.

> *"My classes were three days a week, I arrived at 9 pm, and I had to get home quickly. We fought every night about how bad a mother I was. 'You leave your children and go. You are neither a woman nor a mother; you leave a 2-year-old child in your mother's arms, so what? It's a pity to call you a mother. Why should our children eat cold food?'*
>
> *If one of the children caught a cold, that night would have been my funeral, not because of my child, for the fear of my ex-husband. I remember one time my daughter broke her leg, he constantly said 'It's your fault. If you had been watching her, this wouldn't have happened. You are always buried in your books. To what end?'"* (Fereshteh)

2.7.10.3.1. Being blamed for the parenting style by the spouse

Being blamed by the spouse for the way children are treated and raised, in case of common health problems for children (such as scratches, colds, etc.), has always created fear and anxiety for the individual who sees his/ her spouse as a strict and ruthless guard.

> *"My husband used to say 'you want to educate children with books the way foreigners do. It doesn't benefit us. The child must be afraid. They are girls. They will grow up to be rude like you'."* (Fatemeh)

Conclusion

The feeling of failure is a social phenomenon, including psychological feelings. Negative social experiences and past failures, low social class or class degradation, being an immigrant, controlling families, being female and being divorced are some of the things that lead to the formation of failure identity.

Meanwhile, families play a reinforcing and causal role in experiences of failure, trying to control the individual by imposing mental and objective constraints, using mechanisms such as threats, humiliation, analogy, concessions, rejection, motivation, guilt, and fear. Some blame the family for their failures and believe that the solution is to eliminate contact with the family. Individuals with a controlling family make all of their decisions in response to family-imposed choices, and look for a respond to the inner voice of the family's desires in their life.

By instilling traditional beliefs, families have prevented women from taking advantage of opportunities for success. This process of attachment creates a duality for middle-class women. On the one hand, they have grown up as independent women under the influence of educational and academic teachings; on the other hand, society's expectations have caused this group to have a duality of values. This conflict in values takes much effort and energy. Attempts to adapt to traditional patterns are always unskillful and unsuccessful due to the lack

of roots in the imitative educational structure. Feelings of loss, alienation, anger, guilt, and despair are common feelings in these people.

Financial barriers and the economic needs of the family force people to pursue jobs and situations that result in despair, so a dual sense of anger and duty is formed in the individual, which has consequences such as family tensions and a sense of self-sacrifice, whereas the family and society play an oppressive role. Losing the opportunity to success due to economic constraints makes a person angry, so they point the finger of blame at the other person, as a result of which the family relationships of these people become an arena of anger.

As described, family communication is one of the challenging areas that has conveyed a sense of despair to the individual. Rejection by family members results in feelings of hopelessness and alienation that affect marital and work relationships. Feelings of abandonment in the family of origin, lack of healthy emotional bonds with parents (especially after parental separation) cause emotional failure in adulthood.

Individuals with controlling families experience a dilemma of values due to the threat of abandonment and deprivation of economic privileges by their parents. Parents' emotional and mental management puts a lot of stress on the child by instilling a sense of guilt. Some consider escape to be the solution to get away from their family. In this group, scheming, self-blame, rumination, regret and anger are strong.

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Incrimination of Freedom of Conscience or How "Life Beats the Movie"

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ABSTRACT: During the communist dictatorship in Romania, many citizens fulfilling their compulsory military service were criminally convicted of insubordination on the grounds that they refused to join the army or because they refused to take the military oath. Among these young people, many were condemned for refusing to work on Saturday, considering the Sabbath as a day of rest. Following the December 1989 revolution, Romania compensated people sentenced to prison or other forms of persecution for political reasons through material means. In 2009, amid tensions between the Romanian state and the Religious Organization Jehovah's Witnesses, the High Court of Cassation and Justice, the Supreme Court in Romania, described the crime of insubordination in the army as a common law crime and not a political one, thus condemning all forms of manifestation of freedom of thought or freedom of religion as a crime of common law.

KEYWORDS: Hacksaw Ridge, Jehovah's Witness, conscientious objector, Romanian law, freedom of conscience

Introduction

Hacksaw Ridge is a 2016 film directed by Mel Gibson (Mel Columcille Gerard Gibson is an American actor, director-producer and writer, born on January 3, 1956, Wikipedia). The film received two Oscars, one BAFTA award and 50 other awards (Hacksaw Ridge in IMDB 2016). The film tells a true story during World War II when Desmond T. Doss (born February 7, 1919, in Lynchburg, Virginia, USA, deceased on March 23, 2006), a caporal who took part in the World War II as a sanitary in the US Army, refuses to carry or use a weapon during the war, requesting to serve the US Army as a non-combatant soldier. His request was denied and the solider was the subject to an immense pressure from his fellow soldiers and his ranking superiors. Desmond Doss was arrested for "insubordination". After many ordeals, Desmond Doss is assigned to the 77th Infantry Division of US Army, as a doctor. He actively takes part in two of the bloodiest battles in Guam and Philippines. During the battle of Okinawa, Desmond Doss rescued 75 soldiers from his division (Bernstein 2006) without carrying a gun. When he died in 2006, Desmond T. Doss was buried with military honors (Doss 2015, 145), being the first solider to be convicted for insubordination and to be later awarded with the highest military distinction offered by the Congress of the Unites States of America (the decoration id handed over by the President of the Unites States of America in the name of the Congress, The National WWII Museum 2020). He was decorated twice with the Bronze Star Medal, which is the highest distinction awarded to a military for heroic achievement in a combat zone.

The Freedom of Conscience in Romania

In 2009, the High Court of Cassation and Justice of Romania (HCCJ) issued a legal decision that almost was unnoticed: the Decision 32/2009 for the examination of the appeal in the interest of the law, regarding the application of the provisions of article 1 paragraph (1) letter a) of Decree-Law 118/1990, republished, with subsequent amendments and completions, to

the persons who, after March 6, 1945, and until 1989 inclusive, were definitively convicted for crimes of refusing to draft or to serve in the military or convicted for insubordination as stated and punished by article 334 and 354 of the Criminal Code, committed on the grounds of religious conscience (Official Journal 137). This decision, which clarifies how the courts of law should interpret the Law 118/1990 – granting rights to persons persecuted for political reasons by the dictatorship established from 6th of March 1945, as well as to those deported abroad or imprisoned (Official Journal 1208). The appeal which was adjudicated by the High Court of Cassation and Justice of Romania stated that "the persons who received a final sentence for crimes committed against the country's defense capacity, stipulated by articles 334 and 354 of the Criminal Code [the Criminal Code from 1968, abolished on the 1st of February, 2014, *subl. nos*.], committed for reasons of conscience, cannot benefit from the rights granted to persons persecuted for political reasons" (Decision 32/2009). The decision affected those citizens who, for reason of conscience, refused to fulfill military service or participate in armed confrontations, the so-called "conscientious objector".

The High Court of Cassation and Justice had the mission to standardize the sentences of all courts throughout the country which, in similar cases, pronounced contradictory decisions in case of recognition of the political character of the conviction of the faithful of the Jehovah's Witnesses Organization for refusing to join the army or to swear allegiance to the country. The contradictory sentences were also caused by the fact that the Law 221/2009 – political convictions and administrative measures assimilated to them issued between March 6, 1945 and December 22, 1989, art. 1 (Official Journal 396/2009), which includes the Criminal Code articles incriminating political offences, does not stipulates the crime of insubordination, it has to be noted that in the Criminal Code from 1936 the insubordination crime did not exist, it only existed in The Military Justice Code of Romania from March 3, 1937 (Official Journal 66/1927). In these conditions, the High Court of Cassation and Justice specifies that the refusal to fulfill compulsory military service or the refusal to swear allegiance to the country were valid obligations for all Romanian citizens, regardless of their religion belief and that *"the protection of such values by means of penal law does not belong to a certain order, but to the sovereign right of a state to regulate the participation of its citizens and the forms of participation for the fulfillment of an obligation required by the fundamental law. Introducing the obligation to perform military service was meant for all citizens that were able to perform it, without any discrimination on religious or other grounds*." (Decision 32/2009).

However, as it is acknowledged in the Decision, the Romanian Court considers in particular the members of Jehovah's Witnesses Religious Organization. References to Jehovah's Witnesses Organization in the Romanian Court's Decision from 2009 are not accidental, coming after Romania had lost due to the ECHR Decision regarding requests no. 63.108/00, 62.595/00, 63.117/00, 63.118/00, 63.119/00, 63.121/00, 63.122/00, 63.816/00, 63.827/00, 63.829/00, 63.830/00, 63.837/00, 63.854/00, 63.857/00 si 70.551/01, formulated by the religious organization "Jehovah's Witnesses – Romania" and others against Romania from July 11, 2006 (Official Journal 101/2007), when, after negotiations, Romania acknowledged that "The Government admits that the initial sanctioning of individual applicants, in their capacity as ordained ministers, for failing to perform military service may have been a violation of the rights stipulated in the Convention." Therefore, Romania and Bulgaria were in the same situation, being forced to recognize the right of the Jehovah's Witnesses Organization to refuse active military service, the right not to be bound by the provisions of blood transfusion law. Bulgaria also officially recognized the religious organization as a consequence of the ECHR decision from The Application No. 28626/95 of the ECHR: Khristiansko Sdruzhenie "Svideteli Iehova na" (Christian Association Jehovah's Witnesses) against the State of Bulgaria. However, it seemed that the battle against "non-combatants for reasons of conscience" had been won by Armenia through another ECHR sentence Bayatyan vs Armenia, that had been published on October, 27th, 2009, stipulating

that article 9 of the European Convention on Human Rights, interpreted in the light of article 4 paragraph 3, letter b, does not guarantee the right to refuse compulsory military service on conscience grounds, therefore, non-combatants' fundamental rights have not been violated.

Today, the religious organization "Jehovah's Witnesses" is one of the 18 religious cults that are legally recognized by the Romanian state. In Romania, the history of "Jehovah's Witnesses" begins in 1911 with the "Bible Students", the followers of Pastor Charles Taze Russel who was preaching a new Christian doctrine, totally different from the other Christian denominations since it did not recognize the Trinity. "Jehovah's Witnesses" recognized Jesus Christ as the Son of God, but not equal to his Father.

Between 1949 and 1990, the organization was outlawed in Romania, its members often being convicted for being part of the religious movement. Most of the convictions were due to the fact the members of the "Jehovah's Witnesses" organization refused to enlist in the army, to swear the allegiance to the country or to recognize the authority of the state.

As mentioned above, Jehovah's Witness Organization was not at its first litigation with the Romanian state. From 1990 till 2003, the organization "Jehovah's Witnesses" had the status of a religious association. In 2003, the Ministry of Culture and Cults was required by the Supreme Court of Justice (Decision 769 / 2000) to recognize the status of religious cult for the "Jehovah's Witnesses" Organization (Cuciuc 1996, 78-80). It should be noted that one of the reasons why their religious organization was not recognized as a religious cult until 2003 was its refusal to recognize the political authority of the state, its armed force and the political and social organization of the country.

In these conditions, the High Court of Cassation and Justice issued Decision 32/2009 which, at first sight, affected only members of the new religious cult – Jehovah's Witnesses Organization – which demanded compensations for all the years spent in communist prisons for the crime of refusing to take up arms or refusing to take the oath.

From our point of view, the Supreme Court hastened to rule on an appeal in the interest of the law, even if there were contrary decisions in the courts of the country and, in particular, the Court hastened to arm itself in motivating the decision with an ECHR decision which was apparently favorable, even if the Romanian state had suffered several defeats in court against the religious organization "Jehovah's Witnesses".

First, the High Court of Cassation and Justice did not conduct a documentary investigation or seek the opinion of the specialists of the National Council for the Study of Security Archives on the political and historical context in which the political judgments were pronounced after March 6, 1945.

The Supreme Court limited itself to considering that all criminal convictions for the crime of "insubordination" pronounced against the military men have a common law character because they concern a general obligation valid for all Romanian citizens to participate in the national defense effort. The court does not analyze the phenomenon, the role of the army after the end of the war, the effects of the Sovietization of Romania. Understanding the repressive phenomenon of the communist authorities established in Romania after 1945 is a difficult process and requires a lot of patience and attention. Even after 30 years of efforts in studying the phenomenon of communist repression in Romania, some aspects are still unclear to us, interpretable or unanswered.

In our study, we have identified at least three major stages of communist political repression against people who, for various reasons, fought against the communist regime or who, without a well-defined reason, were assimilated as reactionary elements and treated as such by the communist authorities:

The period between 1945 and 1953 is the Stalinist period of implementation of communism in Romania, a period marked by nationalization, forced collectivization and population displacements, overlapping with the dissolution of associations, foundations, as well as political parties and the condemnation of their members.

Specific to this period are the hasty criminal trials, in which the sentences were known before the trial and which were distinguished by unmotivated or briefly motivated criminal sentences, often written on a single page.

The sentences, the invoked articles of law or the judicial procedures, in many cases, were not related to the accusation brought against the convict or to the alleged criminal act. Thus, most convictions referred to insubordination, sabotage, conspiracy against the social and state order, attempted coup, fraternization with the enemy, etc.

The period between 1954 and 1980 is the period of relaxation of communist repression and the "democratization" of social and political relations. This period is marked by the pardon of a large category of political convicts by the Decree 155/1953 and by the massive repatriation of Germans, Jews and Greeks ethnics to their countries of origin. At the same time, this period is marked by Romania's obtaining the "most favored nation clause" from the USA.

From the point of view of the communist repression against the opponents of the Bucharest regime, we can observe that the formulated accusations were refined and diversified including: illicit income, possession of currency, possession of forbidden literature, distribution of propaganda materials of political, religious or ethnic character. During this period the penal trials for political offenses are complex, the defendants are allowed the right to defense themselves and the trials extended over a long period of time, precisely to simulate the fair and unpretentious nature of the trial. In fact, the sentences were prepared by the State Security staff and entrusted to the judges as a task. We can also identify another feature of this period: the forced hospitalization of political dissidents in institutions for treating mental illness. These hospitalizations are based on false medical examinations, prepared by State Security personnel.

The period between 1980 and 1989, the period of political reforms in the USSR is marked in Romania by the continuation of the political repression of all persons who criticized the policy of the communist regime in Bucharest or the cult of personality of Nicolae Ceausescu. However, the staff of the State Security had perfected themselves and drawn up a very laborious plan of social, professional or religious denigration of the dissidents.

From the point of view of political repression, the criminal proceedings staged for various common law crimes continue: embezzlement, possession of foreign currency, etc. as well as criminal investigations with house arrest or forced residence.

Even without a historical-political documentation, we consider that Decision 32/ 16.11.2009 of the HCCJ refers strictly to the situation of drafted Romanian citizens who refused to swear allegiance to their homeland or refused compulsory military service for religious reasons (most of them belong to Jehovah's Witnesses Organization and the Reform Movement).

Although the HCCJ is the supreme court in Romania and many experienced lawyers work here, they did not have the legal or moral capacity to conduct common conscience trials for the crime of insubordination without analyzing each case. We want to point out that, in the reasoning of Decision 32/2009, HCCJ mentions that *the crime of insubordination in the case of military service compulsory to all citizens* is a common law offense, therefore it is our conclusion that not all insubordination offenses are common law offenses, but only those specified. Without a careful analysis of the criminal and the network file of each applicant for compensatory rights, which offer an insight of the real reason for the conviction, the notes written by criminal investigators or by Security stuff, the statements of witnesses, network informers etc. any judgement can only be hasty and subjective.

Consequently, the conviction for various legal reasons of the military who, between 1945 and 1989, made public their religious orientation in the army could be objective (in case of refusal to draft or to swear an oath), but could also have the purpose to determine those men to abandon their religious beliefs, to draw public attention on them and to put them under pressure in order to discredit religion, religious beliefs and to create the new kind of man and the socialist society. We think of a similar conviction for a group of 16 Adventist military in 1950, known as the "Delicote Lot", when the Adventist Christians were charged by the

prosecutor with insubordination, saying that "they knowingly and willingly committed the act in order to urge others to disobey, thus serving the enemy, the imperial enemy which seeks to bring anarchy among the ranks of our nation army" (CNSAS, 9).

We consider that the High Court of Cassation and Justice of Romania made a hasted decision when Decision 32/2009 was pronounced and by choosing the European Court of Human Rights Decision as an argumentation since the case of Bayatyan versus Armenia was in the trial phase at ECHR in the same year. The final decision of the Grand Chamber of ECHR was pronounced on 7th of September, 2011 and it had drastically changed the initial decision, stating that *"although article 9 did not explicitly referred to the right of conscious objection, the Court considered that opposition to military service, motivated by a serious and insurmountable conflict between duty to serve the army and the conscience of an individual, constituted a conviction or belief of sufficient conviction, seriousness, cohesion and importance as to attract the guaranties of article 9. That being the situation of the plaintiff, article 9 was applicable in his case. Moreover, given in particular the existence of alternatives capable to accommodate both involved parties in the vast majority of European states and that the conviction of the plaintiff occurred at a time when Armenia had already undertaken to introduce alternative service, the Court considered that there has been a breach of article 9 of the Convention in the present case*."(Bayatian vs Armenia).

After this decision of the Grand Chamber, all ECHR decisions (Case Erçep v. Turkey, Feti Demirtas v. Turkey, Buldu et autres c Tuquie etc.) were to condemn the states for violating the freedom of belief, consciousness and religion, particularly in the case of compulsory military service. Therefore, Romania's decision to consider the crime of insubordination during compulsory military service between 1945 and 1989 as a common law crime is against the ruling of European Courts of Law and it represents a fundamental violation of fundamental human rights.

The fact that the legislator did not include the crime of insubordination, mentioned in article 334 of the Criminal Code from 1968, (Official Bulletin 79/1968), on the list of political crimes could be considered as an inadvertence, since the Law 221/2009 states that *the instigation to insubordination* (Criminal Code 1968) is a political crime. In reality, it cannot be a common law crime as long as the legislator defines political crimes as "any political conviction sentenced by a final decision of the court, given between 6th of March 1945 and 22nd of December 1989, for acts committed before and after 6th of March 1945 and aimed at any kind of opposition against the totalitarian regime established on 6th of March 1945." Freedom of conscience, freedom of religion and the practice of religion are fundamental human rights (see an ample analysis of the fundamental human right to freedom of thought, conscience, religion and practice of religion as a primary form of human rights in: Dura, Mititelu 2014; Dura 2003, 15-23; Dura 2005, 5-33; Dura 2006, 86-128; Dura 2017, 147-169; Dura 2020, 27-53), which the communist regime established in Romania has grossly violated in its attempt to create the new man in the socialist society.

The conviction of an individual who demands respect for the right to freedom of conscience, freedom of thought and freedom to practice his own religion is, without a doubt, a political conviction, as long as the state, as a political institution, refuses to recognize and guarantee these rights.

The side effect of Decision 32/2009. As I was saying, the decision of the supreme court by which the crime of insubordination is not considered a political crime went almost unnoticed in 2009 because of the small number of plaintiffs to whom it was addressed. In 2010 and later, there were several dozen cases pending before the Romania courts claiming rights for people who had suffered persecution on political grounds. Most of the persons entitled to benefit from the provisions of Decree Law 118/1990 had clarified their legal situation between 1989 and 2010, the dissatisfied were few and quite misunderstood by most.

However, at the beginning of 2021, Decision 32/2009 of the Hight Court of Cassation and Justice is back in the news. The Parliament amended the provisions regarding the persons

persecuted on political grounds by the communist dictatorship established on 6th of March 1945 thru The Law 232/2020 – modification and completion of Decree-Law 118/1990 on granting rights to persons persecuted for political reasons by the dictatorship established from 6th of March 1945, as well as to those deported abroad or imprisoned (Official Journal 1036 /2020) were included on the list of compensated beneficiaries, as well as those deported abroad or considered as prisoners. Overnight, thousands of heirs of politically persecuted persons between 1945 and 1989 asked the National Agency for Payments and Social Inspection to grant the rights due to their deceased parents. Many of these applicants are the children of people convicted of "insubordination" during compulsory military service. Indeed, most of them were convicted of refusing to draft or refusing to take the military oath. Many of their parents were convicted for being part of the Legionary party so they are not eligible for these compensations.

From our estimates, during the period between 1945 and 1989, the communist authorities convicted several dozens of people for their refusal to work on Saturdays during the compulsory military service, on conscience grounds, despite the fact that these persons presented for enlisting, took the military oath and performed their assigned military tasks, without objections. Most of these persons belonged to the Seventh-day Adventist Church in Romania and to the Reform Movement Association whose rest day was also on Saturday – the Sabbath day.

In this case also, we must analyze the historical and political context by which many members of legally recognized religious cults in the People's Republic of Romania, later the Socialist Republic of Romania, who were serving their compulsory military service, were sent before military courts of law on charges of *activity against the working class* (Decree 62/1955, art. 193/I, not published)*, crime of disrupting the constitutional order* (Criminal Code from 1936, art. 207)*, public instigation or insubordination* (Criminal Code from 1968).

Therefore, the Seventh-day Adventist Christian Cult in Romania was recognized by the Romania State through Decision 24536/1928, according to the rules of operation of Baptist and Seventh-day Adventist Religious Associations (Curierul Crestin 1928), by Decree-Law 407/1946 to recognize and regulate the Seventh-day Adventist Christian Cult in Romania (Official Journal 126/1946) and subsequently by Decree 1203/1950 of the Great National Assembly – approval of the statutes of organization and functioning of: Baptist Christian Cult, Seventh-day Adventist Christian Cult, Evangelical Christian Cult, Pentecostal Cult or The Apostolic Church of God and the Representative Federation of Recognized Evangelical Cults, (Official Journal 1950). Given that the rest day of the Seventh-day Adventist Christian Cult is Saturday and based on the fact that the communist state guaranteed the religious freedom, the state had to ensure the right to practice religion and the freedom of conscience, at least at a minimum level such as the right to have a weekly rest day, especially since Romania was no longer in a force majeure situation. The Constitution of Romania from 1948, art. 27 stipulate that "the freedom of conscience and freedom of religion are guaranteed by the state. Religious cults are free to organize and they can function freely if their ritual and practice are not contrary to the Constitution, public safety or morals. No denomination, congregation or religious community may open or maintain general education institutions, but only special schools for the training of the personnel under control of the State. The organization and functioning of religious cults will be regulated by law." (Official Journal 87bis/1948). We have also to mention the argumentation presented by M. Ralea, the acting ministry of arts and cults, published in Official Journal no. 126 from June 3, 1946 in which he states that "the Ministry of Cults... investigated the confession of faith and the norms of organization presented in their Statute... and finding that this statute does not contain anything that may prejudice public order, morals and the laws of the State..."

In most of the criminal investigation files studied in the archives at the CNSAS (the National Council for studying the Archive of State Security), adventist citizens who joined the army of the people's republic and later the socialist republic had sworn the military oath

and received basic military training. As Romania had abandoned "the fight for peace" and was preparing to build the Socialism, all available human workforce was reassigned for the civilian elaborate works that would mark the Romanian communism for years to come (House of the Press, Danube-Black See Channel, Danube-Dambovita Channel, the House of the People etc.). Under these conditions, with few exceptions, the military men were mobilized to help with construction work. Among them, there were religious minorities who demanded that their rest day on Saturday be respected. Initially, the military authorities, taken by surprise, accepted most of the demands, especially that the workflow was a permanent one, including on Sundays or on religious holidays. Thus, for a good period of time, the Adventist and Reformist militaries benefited from their weekly rest on Saturdays, working on Sundays.

The situation began to change starting with 1952, the cause being the anti-Semitic policy of I.V. Stalin. At first, Stalin was pro-Zionism, the Soviet Union and other states supported the formation of the Israeli state in 19748. The reason for unconditioned support of the Zionist cause was Stalin's firm belief that the new Jewish state will certainly be a socialist one and this will help diminish the influence of Great Britain in the area. Later on, seeing the democratic path chosen by Israel, Stalin became a declared enemy of the Jews, especially of Russian Jews, whom he suspected of conspiring against the soviet communism (Johnson 1991, 527). The communist authorities began to be suspicious about any religious manifestation similar to Judaism, and as Adventists and Reformists held Saturdays – the Jewish Sabbath – things became complicated and dangerous. To avoid further complications, party activists decided to exclude from the army any form of religious manifestation, and especially similar to Judaism. Thus, the permission to rest on Saturdays instead of Sundays began to be denied. Firm in their beliefs, the young soldiers refused to work on Saturday, invoking their religious principles which, in theory, the state had committed to recognize since 1948.

To set an example to all those who would have dared to oppose the party and state order, the Romanian Army began to send dozens of Adventist soldiers in front of military tribunals. Most of them were accused of insubordination on the basis of article 503 of the Military Justice Code of 1937, but they were also accused of other crimes mentioned above: activities against the working class, disrupting the constitutional order, public instigation or instigation to insubordination *etc.*

We have observed that the important thing, in these cases, is not the refusal of citizens to draft or to swear an oath, but the refusal to violate their principles of conscience and religious principles regarding their work on certain weekdays, in peace time and especially when their work norm could be redistributed on another weekday without any other major implications.

In conclusion, we have noticed that, through a brief argumentation, based on an intermediary European case-law, Decision 32/2009 of the HCCJ, sends political insubordination during the communist dictatorship in the domain of derisory criminal acts, making a judgment of common conscience for the crime of insubordination, without analyzing each individual case. Unfortunately, the courts of law will be forced to adhere to the decision of the Supreme Court, without having the chance to analyze the evidences, the nature of insubordination and the classification of this crime in the time and space of the communist political persecution.

However, in the light of ECHR jurisprudence subsequent to the case Bayatyan vs Armenia, most likely the majority of complaints that will be addressed to the European Court of Human Rights regarding the refusal of the Romanian state to recognize the violation of fundamental rights of citizens and the refusal to compensate them according to the Decree-Law 118/1990 and Law 221/2009 will be admitted, Romania, thus, entering again the long list of European states to pay compensations and court expenses. The saddest thing is that many of those entitled to be compensated will not appeal in court or many of those will no longer be alive when others' complaints at ECHR will be admitted.

The simplest and most logical way would be for the High Court of Cassation and Justice of Romania, in the light of the European Court of Human Rights jurisprudence, to reconsider its own decision, clarifying the nature of insubordination crime during the communist regime as a political crime.

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