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Combining Agile and Traditional Project Management as a Better Approach to Project Implementation

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ABSTRACT: The project management concept has changed significantly since its initial emergence, and is still evolving. With constant process of changes in the characteristics of projects, standardization, and software and application development, new project management approaches have also developed. Combining an agile and traditional methodology became the best way of management for many projects. PMI² methodology has significantly contributed to this, as example of project management best practice. The paper deals with the analysis of success in project management based on the application of different project methodologies.

KEYWORDS: Project management, traditional methodology, agile methodology, PMI² methodology

Introduction

Successful project implementation in an environment where technology is constantly advancing, and where the life cycle of products and services is constantly decreasing, is an increasing challenge. The projects that need to be realized are less and less clearly defined, and the realization of the project and the final result must be adjusted constantly, using opportunities and reducing possible threats (Hilson 2002). Accordingly, project management is becoming increasingly complex and increasingly challenging (San Cristobal et al. 2019).

With changes in the characteristics of projects, management approaches have also developed. Traditional approaches, although widely used in the beginning, are not always the best solution. The development of information technologies and the rapid development of software have led to the emergence of agile approaches, but they are not suitable for every project either. Many projects by their nature require different management approaches throughout the project life cycle. Therefore, a combination of traditional and agile management approach, agile and non-agile teams, can be a better solution for more effective and efficient project management.

Importance and types of project management

The project management methodology must be in accordance with the project (Ungureanu & Ungureanu 2014). If this is not the case, then there is a high probability that the project will fail (Mentis 2015). At the beginning of the development of project management concept, it was considered that one methodology was adequate for all projects (Seymour & Hussein 2014). Further developing of the project management is necessary, needed to be done through theoretical and empirical research (Seymour & Hussein 2014).

Project types, and accordingly the appropriate project management methodology, are based on two project characteristics: objectives and solutions (Chin et al. 2012). In relation to the defined characteristics, each type of project corresponds to a certain project management methodology (Wysocki 2009):

- Traditional Project Management (TPM)
- Agile project management (APM)

- Extreme Project Management (xPM)
- Emertxe project management (MPx)

If there are clear objectives and clear way of reaching them, then traditional project management is the best methodology. But since there are different projects, with unclear objectives, or unclear ways of reaching them, each project requires different approach (Burgan & Burgan 2014). If objectives are clear, but not the way to reach them, then agile methodology is applied. Today, even 71% of organizations use agile methodology, for all or some of their projects (Project Management Institute 2017). The success of agile methodology is based on its advantages when it comes to projects where it is not known how to achieve the set goals. Extreme project management methodology is applied under conditions of rapid change and uncertainty (DeCarlo 2004). Emertxe project management methodology is an approach that is applied to projects with known ways to achieve objectives, but unknown project objectives (Toljaga-Nikolic et al. 2017).

Combining agile and traditional project management

Combining an agile and traditional methodology is a more adequate way of management for many projects (Linke 2019). Combining can be organized so that the first part of the project is realized by an agile approach, while in the second part a traditional approach is used (Shankarmani et al. 2012). An example of such a combination can be found in software development projects (Yang et al. 2016) where the first part of project is development, where the agile approach is used as a better solution, while the second part of the project provides training for people to use software, and can be planned and implemented by traditional project management methodology. In case it is possible to plan and monitor the project implementation using the traditional methodology, but for the implementation of activities it is necessary to use an agile approach, it is possible to use the simultaneous application of agile and traditional project management methodology (Yang et al. 2016). Sometimes most of the project can be managed using a traditional project management methodology, while only one part of the project needs to be implemented with an agile approach. In some projects, agile methodology is for the most part the best approach, however, part of the project, which e.g. is given to subcontractors, it is best to implement a traditional methodology because there is no uncertainty regarding the planning and implementation of their activities.

The need to combine an agile and traditional approach to project management is already recognized in certain methodologies. The methodology that is particularly interesting for analysis is the methodology for project management of the European Commission - PM² (European Commission 2018). The goal of the methodology is to help project managers and organizations to manage projects more successfully (Kourounakis 2017). During the creation of the methodology, special attention was paid to the environment and needs of the institutions of European Union, i.e. the specifics of projects that are implemented under their jurisdiction (Kourounakis 2017).

PM² contains elements of a wide range of best practices in project management. It is based on IPMA-ICB, PMBOK, Prince2, CMMI and the experiences of EU institutions (European Commission, 2018). It was first introduced in 2008, and the pilot implementation was in 2009 (European Commission 2018). The introduction of the agile approach started in 2014 (Agile@EC), and the first certification in EU started in 2016 (Pantouvakis 2017).

The PM² methodology provides (European Commission 2018, 1):

- a project governance structure
- process guidelines
- artefact templates
- guidelines for using artefacts
- a set of effective mindsets

The agile approach in the PM² methodology is incorporated in all parts of the original traditional project management framework (management, life cycle, processes, artifacts) thus creating a basis for better project management and organizational agility (European Commission, 2018). The agile project team is incorporated in organizational model of project management in accordance with the PM² methodology, in addition to the classically organized project team (Szreder et al. 2019).

In a narrow agile project team, the role of team coordinator is to facilitate and coach the team (Shastri et al. 2017). He should create and maintain conditions that will enable the team to focus on achieving specific goals. The product owner should represent the interests of stakeholders (client and end users) in order to better identify and set work priorities (Shastri et al. 2017). The owner of the architecture is responsible for the creation and development of solutions and takes care of past and future activities related to the outcome of the project (Shastri et al. 2017). Members of the agile project team are in charge of developing solutions in accordance with the identified needs of stakeholders (Shastri et al. 2017). The team includes people with different knowledge and skills, and therefore it is necessary to have the ability to work with people of other specialties.

Projects implemented using the PM² methodology contain five process groups (defined with the development of a traditional approach to project management), regardless of the fact that the project is implemented using a combination of traditional and agile methodology (Boehm & Turner 2005). The application of an agile methodology implies that there is a greater overlap between process groups, i.e. a less pronounced sequential character typical of the traditional project management methodology (Abrahamsson et al. 2002).

When combining the traditional and agile project management methodology, the iteration of the agile methodology is the time period for which the narrow agile project team needs to deliver a specific project result that is functional enough to be used (Gustavsson 2016). Artifacts provide support for the application of the methodology and are designed to record and document information in terms of management methodology, specific activities, key events, problems and progress reporting. Artifacts are grouped into three categories: agile artifacts, coordination and reporting artifacts, and management artifacts (Wagenaar et al. 2015).

Conclusions

We are witnesses that the practice of project management has changed significantly since the initial emergence of project management concept. Early approaches to project management were based on pre-defined goals, previously defined activities, known steps in implementation, i.e. project management where the environment and method of implementation did not change significantly during project implementation. In the meantime, different approaches have been developed in accordance with the types of projects, but also in accordance with changes in business and environment. Today's working and business environment require that we define project management flexibly and adapted to dynamic internal and external changes.

Today, we increasingly have an overview of projects through combined life cycles that define the implementation process much more realistically and enable a better approach to project implementation. Combined life cycles involve creating a mix of multiple project management methodologies, i.e. combining methodologies in accordance with the project characteristics and changes during the life cycle. The European Commission has recognized the need to combine a traditional and agile approach and has developed a PM² methodology to provide organizations and project managers with a tool for more successful project implementation. This is just one of the methodologies that contain a combination of several management approaches, and in the coming period it is expected that the number of hybrid methodologies will increase with the development of project management concept.

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Gender Violence in India and the Laws: An Analysis

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ABSTRACT: Understanding the varying dimensions of violence against women and the impact of juridical and legal modes of reparation on their well-being is the main theme of the present paper. The primary objective of this paper is to study and analyse if the stereotypical legal remedies provided to Indian women have been able to yield the desired result of enhancing equality and harmony in society by mitigating violence against women or not. Are these conventional and typecast legal solutions enough to eliminate gender violence from Indian society? Is there any need to rephrase or overhaul Indian laws or remedies to satiate the need for peace and dignity to all women? Can there be some piecemeal or problem-based solutions to women issues, especially related to violence? Are available ready-made legal solutions capable of ensuring 'justice' to women to all kinds of their problems emanating from 'violence' inside and outside the house, when we all know that 'violence' affects and shatters anyone not only physically, but emotionally, psychologically and often, permanently. Laws and legal remedies evolve and shape with the passage of time, as a process, which can never be only juridical, but should be social and political also. 'Gender violence' is a transnational subject, and more importantly during present times of pandemic, stress and anxiety. There is an urgent need to create and innovate workable solutions with full active participation of women therein. A new zero violence society is the urgent need of the hour.

KEYWORDS: Gender Violence, Legal, Juridical, Institutional, Remedies, Women, Reparation, Laws, Justice

Introduction

Gender violence is said to be 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, which includes threats of violence, coercion or arbitrary deprivation of liberty, whether public or private. This kind of violence covers a broad range of acts occurring in the family, workplace or any other place including battering, beating, assaulting, sexual abuse or dowry-related violence etc. (UNECE 2020). It is a violation of human rights of women, a cause and consequence of gender inequality and discrimination against women in general and impacting women's adversely and severely. It is very difficult to track the history of violence against women, but it is quite clear that much of the violence is accepted, condoned and even legally sanctioned by women themselves, due to their vulnerabilities or social conditioning. The historical view of women as property and a gender role of subservience in patriarchal society, in almost all world systems in which gender inequalities exist and are perpetuated.

Kinds of Gender Violence

Gender based violence is violence directed against a person due to that person's gender and vulnerability thereof. It may be of various forms:

- **Physical:** Act or conduct which causes bodily pain, harm or danger to life etc. It also results in injuries, distress and health problems. Typical forms of physical violence are beating, strangling, pushing, with or without the use of weapons. It also includes assault, criminal intimidation and criminal force.

- **Sexual:** It includes sexual acts, acts to traffic, or acts otherwise directed against a person's sexuality without the person's consent or knowledge, which *'abuses, humiliates, degrades or otherwise violates the dignity of a woman.*
- **Psychological:** It includes psychologically abusive behaviours, such as controlling, coercion, economic violence and blackmail. It may be verbal, physical or other non-verbal conduct, which may result into mental distress, anxiety issues and various other mental and physical disorders.
- **Economic:** Scarcity of basic resources or lack of money to ensure basic needs can be called as economic violence. Deprivation of financial resources required for survival of the victim and her children, the disposing of any assets which the victim has an interest/stake in and prohibition/restriction of use of financial resources etc. are included in economic violence.
- **Female Genital Mutilation (FGM)** is the ritual cutting or removal of some or all of the external female genitalia. It violates women's bodies and often damages their sexuality, mental health, well-being and participation in their community. It may even lead to death.
- **Forced marriage** refers to a marriage concluded under force or coercion which may either be physical pressure or emotional and psychological coercion.
- **Online violence** includes all sorts of illegal or harmful behaviours against women in the online space. It may be linked to experiences of violence in real life, or be limited to the online environment including illegal threats, stalking or incitement to violence, unwanted, offensive or sexually explicit emails or messages, sharing of private images or videos without consent, or inappropriate advances on social networking sites.

Causes of Gender Violence

Gender violence or gender-based violence (hereinafter GV or GBV) is taken primarily as violence against women which is often considered as a mechanism to subjugate women generally or in interpersonal relationships. This kind of violence usually arises from the sense of entitlement, superiority, misogyny or similar attitudes of the perpetrator or motivated by aggression, revenge or competition, due to which women feel threatened and become vulnerable and weak. They are forced into a subordinate position and become susceptible as compared to men. At least one out of every three women around the world is beaten, coerced into sex, or otherwise abused in her lifetime and many a times, the abuser is someone known to her.

International Legal Regime

Many international legal instruments aim to eliminate violence against women such as the UN Declaration on the Elimination of Violence against Women, 1993 states, 'violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.' The Istanbul Convention (Council of Europe Convention on preventing and combating violence against women and domestic violence) of the Council of Europe, which describes violence against women (VAW) 'as a violation of human rights and a form of discrimination against women' and includes 'all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life' (European Commission 2016). The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW,

1979, UN General Assembly), also made recommendations relating to equality and non-discrimination against women in all spheres of life. Vienna Declaration and Programme of Action 1993 specifically mentions that gender based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated (Article 18, Also see, Declaration on the Elimination of Violence Against Women, 1993). In 1996, the World Health Assembly (WHA) declared violence a major public health issue, and included in the subtypes recognized were intimate partner violence and sexual violence, two kinds of violence often perpetrated as violence against women. In 1994, the Violence Against Women Act or VAWA, legislation was passed which required a strengthened community response to crimes of domestic violence and sexual assault and strengthened federal penalties for repeat sex offenders. Later this Act was further strengthened and extended to immigrant victims, elderly victims, victims with disabilities, and victims of dating violence, youth victims etc.

Beijing Declaration and Platform for Action (1995, paragraphs 112-130) inter alia, states that the violence or abuse against women and their widespread exclusion from institutions of power and governance, violates and impairs or nullifies the enjoyment by women of human rights and fundamental freedoms. In all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture. The UN also created the Trust Fund to Support Actions to Eliminate Violence Against Women. In 2013, the United Nations Commission on the Status of Women (CSW) adopted, by consensus, Agreed Conclusions on the elimination and prevention of all forms of violence against women and girls.

Indian Legal Regime

There is a plethora of legislations enacted to safeguard women from violence and ensure dignity and equality in society. Most of the enactments provide similar kinds of institutional or administrative remedies. The basic hypothesis of this paper is to study whether these stereotypical remedies are sufficient enough to provide relief to the violated women or not. Are these conventional and typecast legal solutions enough to eliminate gender violence from Indian society? Is there any need to rephrase or overhaul Indian laws or remedies to satiate the need for peace and dignity to all women? Can there be some piece-meal or problem-based solutions to women issues, especially related to violence? Are available ready-made legal solutions capable of ensuring 'justice' to women to all kinds of their problems emanating from 'violence' in and out of the house, when we all know that 'violence' affects and shatters anyone not only physically, but emotionally, psychologically and permanently. To understand the practical implications of available legal remedies, the author takes up two legislations viz. the Protection of Women from Domestic Violence Act, 2005 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act, 2015) to analyse the remedies available thereunder.

The Protection of Women from Domestic Violence Act, 2005 (hereinafter DV Act) has expanded the definition of domestic violence to include any act (omission or commission) which harms, injures, or endangers the physical or mental well-being of a woman, and includes physical, verbal, emotional, sexual or economic abuse. The 'domestic relationship' has also been defined as a relationship between two persons who have lived together in a shared household at one point of time, and are related by blood, marriage, relationship in the nature of marriage (including live-in relationships), adoption, or are family members. Thus, this Act covers all women who may be mother, sister, wife, widow or partner living in a shared household under any kind of relationship, may it be marriage, adoption or live-in etc., who is or has been subjected to any act of violence. Any aggrieved person or any other person or the Protection officer on behalf of the aggrieved person may file a complaint against any adult male or female member, relatives of husband or the male partner etc. to the Magistrate seeking one or more reliefs provided under this Act. The complaint must

contain facts of the case and the reliefs sought along with all the personal details of the parties. After scrutiny of the complaint by the court, it orders to the PO for preparation of 'Domestic Incident Report' (DIR) which is then entertained by the court and decided after hearing the parties.

As per the provisions of the DV Act, Protection officers, preferably women act as a liaison between the aggrieved women and the system, and are empowered to provide first-hand assistance to an aggrieved woman by informing her of her rights, making a domestic incident report or submitting an application, and ensuring that facilities such as legal aid, shelter homes, medical facilities etc. are provided to her. The reliefs sought by the aggrieved person may include a relief for issuance of an order for payment of compensation or damages for the injuries suffered due to the acts of domestic violence, including mental torture and emotional distress (The Protection of Women from Domestic Violence Act, 2003, Sections 12 and 22) monetary reliefs to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include but is not limited to the loss of earnings, medical expenses, the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person apart from the maintenance for the aggrieved person as well as her children etc. Mediator may also be appointed by the Court who may try to solve the matter through conciliation or if it is not possible, the framing of charges and the adjudication is done to resolve the whole matter.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2015 (hereinafter PoSH Act) is a relatively new piece of legislation. Due to its jargonistic text, it is not easy to understand its intent and application in various scenarios in real-life situations. But it is amply clear that the sexual harassment of women at workplace violates their fundamental rights enshrined under Articles 14,15,19 and 21 of the Constitution of India. The Act lays down guidelines, norms and procedures to be observed which are mandated for all kinds of employers and institutions, whether public or private sector. All complaints regarding sexual harassment of a woman employee must be dealt by the **Internal Complaints Committee (ICC)**, which is required to be headed by a woman employee with minimum half of its members comprised of, only women (The Sexual Harassment of Women at Workplace - Prevention, Prohibition and Redressal - Act, 2015, section 4). **ICC may** initiate an investigation, in case a complaint is received/ forwarded by any source of authority, but as long as the complainant agrees to take the matter forward with them (Ibid., section 9). There is no bar to continue with any other kind of parallel proceedings with any other forum as this Act provides supplemental remedies for the women (*Shital Prasad Sharma v. State of Rajasthan and Ors. 2018 SCC OnLine Raj 1676*). ICC conducts an independent inquiry or investigation in accordance with the principles of natural justice, in accordance with the provisions of the Act (The Sexual Harassment of Women at Workplace - Prevention, Prohibition and Redressal - Act, 2015; *Sarita Verma v. New Delhi Municipal Corporation & Ors.*).

The final report of ICC must be detailed and well-reasoned, providing a complete basis and rationale for arriving at the concluded decision (*Ashok Kumar Singh v. University of Delhi*, Delhi High Court WP 7371 of 2016). Any person aggrieved by the report may file an appeal to the employer or to the appellate authority as envisaged under the Act or may go the Judicial court for the appropriate relief.

Concluding Remarks and Suggestions

Gender violence is a transnational subject, and has been aggravated during present times of pandemic, stress and anxiety. Structural violence precipitate due to deep seated inequalities, more so because women are conditioned to grant others power over them and often condone its abuse. Violence power play required to be altered by systematic creation of support infrastructure,

Awareness and intervention at societal level, sensitization of major stakeholders and of administration. Merely punishing the offender after the abuse or violent act seems an expression of reaction of helplessness and frustration and serves no useful purpose or ensure mitigation of violence. The emphasis must shift from punishment to prevention. Legislative, administrative or judicial interventions may not suffice because violence against women is a deep-rooted social problem. Men, women and the whole society has to understand the problem and dilemmas connected with it and faced by women. All have to work earnestly to eradicate this menace.

We know that women tend to face greater risks during emergencies, including health disasters such as pandemics. There is an increase in violent, abusive, impulsive, compulsive, and controlling behaviour and aggression directed towards cohabiting partners and women. Fuelled by mandatory stay-at-home rules, physical distancing, economic uncertainties, and anxieties caused by the pandemic, domestic violence has increased globally. In India too, in the present ‘Shadow Pandemic’ (Statement by Phumzile Mlambo-Ngcuka, Executive Director of UN Women on April 6, 2020: Violence against women and girls is a human rights violation and is intensified during Covid-19) the number of domestic violence complaints received by the National Commission for Women has doubled during the last around six months. Despite various sensitization programmes, webinars, campaigns, constitution of special cells for women and children and other quick response mechanisms innovated by the Ministry of Women and Child Development to assist victims of domestic violence during the lockdown, signaling intolerance regarding domestic violence across the country has been quite evident but did not yield encouraging results.

By improving status of women in society, ensuring self-identity and financial independence with the help of skill enhancement and education, gender-based violence may be minimized or eliminated from the patriarchal society. Emphasis must be on prevention rather than punishment. Women must be made aware of their rights and empowered enough to speak otherwise no institutional remedy can provide the required solace. As domestic violence is often shrouded in silence, owing to pervasive shame and fear, women must be provided with courage to come out, with the help of awareness, education and independence. Moreover, domestic violence is intergenerational, women whose mothers faced domestic violence, are twice as likely to have themselves experienced spousal violence. There is thus, a clear need to break the cycle of violence. Apart from imparting awareness, societal or bystander intervention to help or assist women may provide some relief to them so that they may have someone to confide to, which will encourage them to speak up, share their stories and condemn domestic violence.

Based upon two legislations, legislative and institutional mechanisms provided to women have been discussed above, which shows the inaccessibility and insensitivity of these legalistic, formal and stereotypical approach of the government, yielding much less than desired. Any measure or mechanism to solve this problem must be ingrained in the given social set-up, to impart confidence and to ensure confidentiality. For this purpose, cooperation needs to be there between community based organisations, government agencies or institutions and the individuals living in that society, as no single person or organization can ensure to curb violence in society.

In a country with deep-rooted patriarchal morals, where the women are supposed to tolerate each and everything that is thrown in their way, there needs to be an equitable way out. Fighting these abusers who prey upon the frangibility of women, is urgently required. The administration and law enforcement agencies need to understand the severity of the issue and assist in doing substantial at the societal level.

There is an urgent need to create and innovate workable solutions with full active participation of women therein. A new zero violence society is an urgent need of the hour. It is worth quoting late Prime Minister, Jawaharlal Nehru, who remarked:

“Legislation cannot by itself normally solve deep rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential and hence that it may give that push and have educative factors, as well as the legal sanctions behind it, which help public opinion to be given a certain shape” (Sharma 2015).

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Feminine Criminality Multilateral Analysis of the Profile

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ABSTRACT: Criminality as a social and legal phenomenon tends to be generalized. Anti-social behavior has no legal gender differences and they are condemned in the same way, depending on the gravity of the offence. The social and psychological impact of the criminal activity, on the other hand, gives the differences and the severity of the individual and general repercussions inside the affected environment. Although feminine criminality has lower rates, it tends to cover a larger area of severe and brutal felonies with higher impact. In this paper, we intend to analyze gender-dependent characteristics, environmental factors, psychological and physiological elements of female anti-social behavior and a woman’s road to becoming an offender, most often, from the status of familial and social dysfunctional ambience.

KEYWORDS: feminine, criminal, psychology, society, justice

Introduction

Criminality amongst women is no simple task to analyse. It is a complex phenomenon that combines psychological factors with environmental factors. There are major elements like instinct, psychological resilience, intellectual capacity and tolerance that are contouring an intense, contrasting and complicated picture of the feminine deviance. The contrast resides in the duality of a woman’s capacity for both love tenderness and cruel or brutal response to severe stress. Instinct tends to be more powerful in situations of acute stress, especially because social and familial factors inhibit a woman’s response to daily negative influences leading to explosive manifestations in major conflictual situations. On other perspectives, in matter of premeditated felonies, feminine criminality tends to be characterised by patience, well calculated and planned actions with specific design of the anti-social act and post-crime conduct. If we pay attention to the immense role of a woman in the socio-familial space and the evolution of her status in the socio-professional space, we need to take into consideration a diversity of factors that influence the woman’s “criminalization” (Bisi 2002, 24).

Maybe one of the most important stress factor is gender discrimination and male dominance that manifests in every level of society in different shapes and proportions. Evolution and breaking through the masculine dominance wall took a lot of efforts and some problems are still persistent if not as a physical aggression then as a psychological one. In disrupted familial environments, abuse on women and discrimination with culture of woman’s weakness is a major problem, especially when religion and tradition are cultivating these behaviours as normality. Women tend to accept their fate and rarely try to exit that space but the options are obvious in our society and the alternatives are very visible, so, the moment of breakdown and no turning back is inevitable whereas it will be a violent one or not (Maxwell 2017, 130).

Masculine versus feminine criminality

Although deviant and anti-social behavior is not gender differentiated and social, material and environmental factors influence both sexes in the same proportion, there are elements that contrast between men and women regarding violent crimes. First of all there are physiological

and anatomical differences but also, behavioral elements influenced deeply by organic factors such as hormonal flux that implies changes in the central nervous system. Psychological factors imply not only the genetic constitution of the woman's psychological profile but also the environmental influences such as society, education, religion, parental issues, love interest and relationship management, material status, professional status, abusive or discriminating environment, all of these bringing a heavy emotional burden on any woman's shoulders. This emotional burden is the most frequent source of violence amongst women who, at some point, become offenders (Hoffman-Bustamante 1973, 117).

Freud explained a woman's criminal tendency as a rebellion against men power generated by deep emotional disorders. In women with psychiatric disorders, emotions can trigger extreme violence and cruelty driven by a low instinct control. Maybe that is the most equitable explanation in the history of psychological analysis as other theories are concentrated on the inferiority of women, their low connection to society, and their concerns regarding superficial interests or explanations of female criminality that refers to sexual promiscuity. Those explanations are not only shallow and discriminating but also expired, given the modern characteristics of a woman's role in society, out of the anonymity of the male "protection" (Box and Hale 1983, 41).

Modern theories are being debating in the present, concerning criminal activity amongst women. The liberation theory associates criminality with masculinity and explains that women were forced to adopt masculine stereotypes like aggressive behavior and competition in order to obtain more power inside society. The opportunity theory says that the higher a woman is included into professional and economical hierarchy, the more she is prone to take advantage of some situations and act delinquently. The same theory can also be used to characterize men so, in order to characterize real feminine criminality we could discuss opportunity in familial space rather than economical spaces. An opportunity can be taken by a women to become violent and retaliate against an abusive member of the family (parent, husband), after a long period of fear, tolerance and emotional repression. Another theory is the one of power control, which resides in the different roles played by a woman and a man inside and outside their home, beginning with the education they, received in that sense (Banarjee, Islam and Khatun 2015, 7).

The truth is these are just a few examples of theories that debate and characterize a woman's criminal tendency. But the relative limit of those theories is that each of them can be adjusted to characterize a man, if you adjust the external and internal factors. The unicity of the feminine criminality stands in the emotional instinctual and personality aspects of the motive of crime. And the one big and complex difference between men and women in deviance stands in the one crime that can only have a woman as its author: murder of the new-born with aggravating or mitigating circumstances (Bernard 2013, 15). This offence, in all the diversity of factors that lead to the killing of a new born baby is one of the most cruel and severe crimes in the forensic field. The feminine characteristic of the crime resides in the modifications of the central nervous system during and immediately after the birth of the child, interconnected with the social and material status of the mother. From the beautiful significance of what motherhood stands for to the murder of a baby are fewer steps then you would think because of the severe hormonal and mental imbalance, lack of control over emotions and most of all, the fear of social standards, especially inside small traditional societies. In Romania, majority of these crimes are committed by young women, from rural environment, with low income, low intellectual stimulation, frequently outside official marital relationships, inside communities with religious and traditional standards that prone people to strong judgments and women to fear of being excluded and labelled for the rest of their lives. The lack of sexual education is obvious in these cases as unprotected intimate relations are often and pregnant women face also material problems that prevent them to address to medical resolutions or adoption resources. All these elements combined with the fact that they have to deal alone with their problems, with the fact that a pregnancy changes a woman in all physical and psychological aspects, added by the

hormonal storm and the psycho-emotional lability during childbirth pushes them to extreme actions in order to escape what they consider an obstacle and not a blessing. From premeditated murders, planned during pregnancy, to post-partum depression the diversity of this offence is as complex as it is cruel and violent and if we analyze all aspects, we will find that the woman alone does not carry all the guilt, but the major impact and the specifics of the crime are unique characteristics for a profile of feminine criminality (Cloninger and Guze 1970, 305).

Psychology of crime in women and social impact of feminine criminality

Trying to develop the public profile of criminal women is difficult. Most times, women are never suspected, due to their normal appearance but also because of the social generic expectations about them. Also, society tends to have dramatic and impressive reactions to cases of feminine offence but it tends to forget them fast and that could be explained by the fact that general public has a hard time reorganizing and associating feminism with criminal activity and so, the general memory sanctions them harder and excludes them, as distressing elements, from the natural social order (Mann 1984). Actually, a woman capable of crime is not only unpleasant but even scary to accept, even with the modern society where women are equally recognized and if we stop and think about it, it is still a form of discrimination. There are few feminine criminals throughout history that survived the public's memory and they are rarely mentioned in articles or studies like Elizabeth Bathory or "The Smiling Granny" – Nannie Doss that killed all her husbands. Their cruelty drive dramatic reactions and moral sanctions from the public but the subject tends to pass quickly from any discussion and that is because, the truth is, nobody wants to see a woman as a violent being (Kalunta-Crumptom 2019, 3). Psychologically, we want to preserve the diaphanous image of the feminine gender, we morally sanction those who "violate the standard and expectations" and we eliminate the defect from our lives and memory. General social balance tends to imagine a man more prone to violence and antisocial activity rather than a woman capable of cruelty. Moreover, a woman's capacity for violence is always a manifestation of genetics, personality and imbalanced education and life environment, all combined into a tragic story and a dramatic action that changed the course of normality (Flowers 1995).

The general public view over feminine criminality is very different and superficial compared with the reality of the situation. The psychological profile of a criminal woman is complex and unique with every case but there are some common tendencies that appear during investigations. One of these elements is the fact that rarely women are aggressive or kill strangers. Most of the times, the victim is someone close, a lover, husband or even a family member. This characteristic is important because this explains the deep emotional involvement of the criminal motivations in women (Vasilyev 2018, 16). Another aspect is the tendency for extremism. Women don't take aggressive behavior step by step and are rarely involved in physical abuse. Because of the power they have to restrain and hide their frustration, sometimes with an immense self-control, the manifestations in the snapping moment tend to go to lethal force, with immense brutality, as a combination of a psychological and emotional tension being released explosively and adrenaline impact on physical strength. If the manifestation is not a result of an impulsive response to accumulated stress factors then it is often a well-planned and designed plan that is developed proportional to the level of stress she is submitted to. That is another way of explaining the capacity of response and retaliation that a woman is capable when she is submitted to a form of abuse and it is well that a woman's revenge can be as cruel as very detailed and designed. So emotion is a powerful motivation for women and almost all aspects of their crimes are personal. (Montgomery and Zeng 2016, 1).

Another characteristic of female criminality is that they rarely organize criminal activity in groups. It is a fact that when it comes to organized crime, women are now as equally respected and feared as men but in matter of crime and violence, the tendency is for them to act

alone. Given the circumstances stated above, this aspect is understandable (Uma 2020, 145). Most severe criminal offences tend to take course during adolescence and young adulthood, and during or immediate after pregnancy. This characteristic raises the problem of hormonal influences in these stages of life, with abrupt nervous and organic imbalances in some types of personalities.

Finally, statistics conclude that men are arrested more rapidly during investigations than women, because of their well-planned actions and capacity for dissimulation. This aspect can only positively discriminate women, given all the aspects stated above (Stanojoska and Jurtoska 2018, 147).

Although many studies have tried to classify criminal behaviors in women into behavioral categories depending on the type of offence, we tend to exclude this approach as the complexity of the subject and the diversity of elements that lead to the criminal behavior are far too vast to be described in limited pictures (Gainford 2017).

From victim to criminal

It is a fact that abuse is one of the reasons why women retaliate in violence. Psychological abuse or physical abuse, sometimes combined, represents chronic stress factors that induces frustration, anger, hate, suffer and pushes the victim to the point of desperate need to free herself. Even in the religious and traditional communities, where women's inferiority and abuse over her are normal, there are tensions that accumulate (Tudoran 2019, 140). Every being, need and tends to be free by instinct, and even if normality and freedom are not known, the natural reflex is to be search freedom. Moreover, we are beings that need love, respect, comfort and trust. Lack of those needs and receiving the opposite feed the negative instincts inside, and drive desperate actions in order to escape the abusive environment (Barlow 2020, 5).

Unfortunately, violence and abuse will only bring back the same, and not only in the instinctual need for freedom but also in fear of the immediate threat. Self-defense can be a lethal instrument when fear is combined with desperation and hate, especially when the women in that position have low self-control and high psychological instability (Ska 2017, 86). The truth is, in the right moment, after a long period of oppression and frustration, from victim to criminal is just one small step.

The characteristics of these crimes, in these specific situations are brutality and chaos. Being an unplanned act, driven by instinct and high emotional instability, the violence is chaotic, conducted with every usual object that the woman has in her surroundings and with extreme force, the blows causing often severe trauma to the head and thorax (Arnekrans 2016, 4). It is interesting to observe how many times, the heart is a target in these situations, as well as in passionate crimes. The target is often the mirror of the woman's suffering and the force of the blows are proportional to the negative emotions that woman accumulated during her abuse and post-mortem lesions can be found as she usually doesn't stop until all her anger and physical force is gone (Faisal 2017).

There are also the cases of families where the father abuses as well the children as his wife and in that case, the violence over the children is sanctioned by the woman in an attempt to save them from the power of the father. In these cases, the lethal force is as brutal as the precedent case but the psychological risk remains for the children that witness the scene (Schmidt A, 2020, 240).

Conclusions

All aspects stated above are just one small part of what feminine criminality means. Its complexity and diversity of factors are too vast for classifications and limitations. Today's

society still expects a limited role for the woman and discrimination persists even in the studies on the anti-social behavior in women.

General public and society tends to morally sanction and exclude women who turn to criminal activity because of their violation of their expected role, even when circumstances conclude that the woman was a victim of an abuse. The limited thinking and judgement are negative discriminating factors for those who are in difficult situations and education regarding this aspect could be further necessary.

Religious and traditional communities are still present in some countries and still influencing the defected normality for some women which remains an important triggering factor for some violent behaviors.

The specific of feminine criminality consists in personal, emotional motivation for the violent act, often as retaliation against abusive or other negative behaviors towards them.

The patience of a woman, her capacity to endure and repress negative feelings is proportional with the capacity of planning well designed crimes in order to obtain their objective, being capable of unique combinations of tender gestures with extreme violence.

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Communication – a Form of Terrorist Manifestation in Cyberspace

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ABSTRACT: The internet and similar network systems are ideal for the terrorist operations they offer unprecedented communication capabilities to terrorist organizations to get their message to the world. Cyber terrorism sets out to communicate in a virtual space with threats and violent cybernetic actions. Hacker communities use this mean of communication with threats to institute cybernetic blockades, to attack various information environments of strategic importance and DoS attacks. Usually, we don't have to confound the internet (as a network) with cyberspace, which holds identities and objects that exist in networks by real individuals for different purposes. The use of communication networks by individuals offers cyberspace an emotional valence, which humanizes it. Terrorist organizations utilize the internet as a mean to communicate, mainly and have created sites on the world-wide-web to spread their ideological propaganda. The internet network, dominated by the principle of anonymity in communication is exploited to the max by the extremist terrorist organizations, which leads to feelings of anxiety, uncertainty and panic. The instruments of communication used by the terrorist organizations have evolved rapidly from the publications Voice of Jihad, Voice of Caliphate, Echo of the bloody battle and Echo of Jihad, from the television stations Al-Agsa, Hamas, Al Manar, Hezbollah and Djihad Kamal, to a communicational activity on sites and forums that they exploit intensely.

KEYWORDS: communication, Cyber terrorism, communication networks

A conclusion that resulted from the analysis of the activities organized by the main terrorist groups recently, reveals a number of 4 directions in which these organizations utilize the informatics technology.

The first would be using the internet for terrorist communications, the transforming of the communications generating a new way to command and control. The second is the access to information via the internet and world-wide-web (www), including accessing information on various targets, as well as technical data regarding weapon manufacturing.

The use of the internet as a platform to disseminate the propaganda of the groups and terrorist causes, as well as the objectives related to the recruitment of individuals in these organizations is the third direction. The fourth direction is the launch of cybernetic attacks towards various data servers that contain sensitive or strategic content.

These directions open up the horizon for my research through an analytic study of the terrorist cyberspace activities. They are completed by a series of analysis regarding information theory through a communication mediated by computer networks that define the information infrastructure. In the cyber-internet space the propaganda actions have developed in the last few years valences of promoting not only ideological ideas, but also of some activities – advertising actions, aspects that define the so-called concept of Ad-Terrorism.

According to a report of the EU, cyber-attacks are becoming more and more sophisticated and widespread. The European Union Agency for Cybersecurity (ENISA 2020) published its annual report in October 2020 in which it summarizes the main cyber threats identified between the years 2019-2020 - as shown in the official release of the EU Commission. According to the report, the attacks are constantly increasing, becoming more and more sophisticated and often left untraced. Especially, increases in phishing attacks, spam messaging and precise targeted attacks on social media platforms are being reported, in this case with terrorist origins. At a glance, they might seem harmless, but their message attracts many young people and people from different social backgrounds, as well as from different nationalities.

The EU is taking strong measures in channeling cybersecurity capabilities. In this sense it will update the legislation in the field of cybersecurity and will adopt a new cyber-defense strategy by the end of year 2020.

There is an increase of community education campaigns regarding protection against terrorist cyber-attacks and attracting youth in the online discussions. The increasingly easy access to the internet and mass-media transforms our youth into a sure target for terrorist groups that found a new way of communication and a new way to attract towards their inhumane actions. We shouldn't be surprised how much online communication can do. "Cyberspace has been, is and will remain one of the most challenging areas in the matter of national internal security" said Wolfgang Ischinger at the 2016 Security Conference in Munich (Ischinger 2016).

The focus was on the fourth industrial revolution which is connecting in a network, digitizing and automatizing the production process. The digitizing has a huge potential - say Mathias von Hein and Claudia Stefan (2016), but the participants of the Conference recognize the huge risks that come with it. In the digital world a single attacker can destroy whole "armies", added the same authors.

Transnational terrorist organizations, insurgents and jihadists have used the Internet as a tool for attack planning, radicalization and recruitment, as a method of popularizing propaganda, as a means of communication, and for disruptive purposes. Mandatory international legal instruments have not yet been developed to explicitly regulate inter-state relations in the virtual space states in opinion of Cernat (2020, 98).

As in the case of cyber warfare, there is no consensus in most national or international legislation on a definition of what constitutes cyber terrorism. Some definitions, addressing acts of terrorism that transcend borders, refer to activities and damages defined in the legislation on fraud and abuse in computer networks and systems, says the same author.

Communication in virtual space is gaining momentum, and terrorist organizations are gaining ground with online publications and forums. To these are added TV programs and radios. One cannot communicate, said Paul Watzlawick (Lesenciuc 2017, 3). WWW (World Wide Web), in translation "spider web of universal proportions", allows the distribution of information of all kinds, including terrorist propaganda.

There are also a number of disadvantages related to vision, computer addiction, overwork, and a problem that is not often circulated at the moment, reducing interpersonal communication. Studies have shown that 66% of respondents prefer the virtual world. 31% of respondents, who use the Internet, use it for fun purposes and only a few percent - for research purposes. Deepening the personality in the virtual world leads to destructive montages such as imaginative satisfaction of needs or their satisfaction with minimal effort. Thus there is "the danger of the formation of the personality alienated from the moral norms with all its consequences." Excessive use of the computer reduces "live communication" emphasizes Cojocaru (2014). It is recognized in the literature that the term cyber terrorism was first used by Collin (1997, 14-18) in his book .

In the Romanian legislation, the crime of cyber terrorism is incriminated in art. 32 para. (1) lit. q) of Law no. 535/2004 on preventing and combating terrorism, as offenses against the security and integrity of computer systems and data, if they are politically, religiously or ideologically motivated and are committed for the following purposes:

a) Intimidation of the population or a segment of it, by producing a strong psychological impact;

b) The illegitimate coercion of a public authority or international organizations to fulfill, not to fulfill or to refrain from performing a certain act;

c) Serious destabilization or destruction of the fundamental, constitutional, economic or social political structures of states or international organizations published in the Official Gazette of Romania, Part I, no. 1161 of December 8, 2004, as subsequently amended and supplemented.

The author analyzes the constituent elements of the crime of cyber-terrorism from the perspective of the Romanian legislation, with reference to the case studies reported in the public space and the specialized literature, case studies, which, although not cataloged as being terrorist attacks, can be used as a reference material for the practitioners and researchers in the field (Jurj-Tudoran 2017).

Man thus becomes a simple terminal of multiple networks (Baudrillard 1997, 12): television, telephony, social networks, etc., and not the superman who extends his nerve endings everywhere. What is offered by media technologies under the name of “communication” is in fact an obscene form of symbolic commodity. Karl Marx had already denounced the obscenity of commodity, linked to the “abject” principle of its circulation. We no longer live in the drama of alienation; we live in the ecstasy of communication (Baudrillard 1997, 15-16).

Introduction of the concept of gatekeeper

The group thus becomes a distinct organism, which functions thanks to the exchange/communication between individuals. In this context, the group outlines specific functional schemes, which involve a specific organization of the communication flow. Lewin Kurt introduces in the study of communication within the group certain selection filters, which have become “gates”, which are “guarded” by decision-makers regarding the transmission of information units (gatekeepers). Whether deliberate or not, the setting of the agenda by the media is a proven fact through research, and the shaping of the agenda is the result of a process of influence, intentionally through mass communication (Lewin 2001).

The role of Lazarsfeld’s study, which mainly pointed out that “more than anything else, people are motivated by other people” (Lazarsfeld, Berelson and Gaudet 2004, 208).

The tyranny of communication

The French journalist and writer of Spanish origin Ignacio Ramonet, since 1991 editor-in-chief of *Le Monde Diplomatique*, is one of those who take a stand against the media offensive, amid a continuous strengthening of the role of technology. In terms of power relations, the media is no longer in fourth place, but in second place as a power of influence, after the economy and before politics.

At the same time, Ramonet draws attention to the fact that through the media “information” has lost its status, becoming a commodity. Information becomes the main player in the profit market and is no longer subject to its original purposes. What matters is the degree of interest it can arouse in the public, the ability to sell, and not the need for knowledge or novelty, aspects that are otherwise outdated.

It matters the functionality on the market, which implies the functionality of the scenarios and not the achievement of an ideal of veracity. The truth that matters is the media truth, the only one that the citizen has at his disposal to verify news, to confirm it or to deny it. Distorted information therefore becomes spectacle information. It evolves; creating a sense of unease among a society that is losing its landmarks and whose culture is being attacked by fluctuating visual images. The print media, television, the internet, accelerate the circulation of information, seductive information, which follows the “logic of suspense and spectacle”. Basically, the parameters that have a decisive influence on the information are the media mimicry, the fever of which they are.

“It shows, it exhibits, it works, it ‘communicates’ an entire electronic actuator, it seems to tell us: ‘What I show you is true, because it’s technological’ and we believe because it intimidates us, impresses us, takes our eyes off and convinces us that a system capable of such wonders cannot lie.”, says Ignacio Ramonet (2000, 39) planetary, like a huge spider’s web,

taking advantage of digitalization and favoring the interconnection of all services in the field of communication and information. (Ramonet 2000, 133-134)

Returning to McLuhan's metaphor for the extension of the human nervous system on a planetary scale (McLuhan 1994), Ramonet's view is different: the human nervous system, including the neocortex, is made of prostheses that react to certain stimuli, allowing it to take certain decisions. The media is implanted in the human consciousness and keeps people captive. The tyranny of mass communication is subtly established and controls the needs, tastes, preferences, desires of the individual connected to the network through technology.

Terrorist structures have a big influence and traditionally built of loose-knit cells, divisions, and subgroup, are ideally suited for flourishing on the internet through websites, email, chat-rooms, e-groups, forums, virtual message boards, YouTube, Google Earth, and other outlets. Weimann (2015) said in his interesting book terrorism's arrival online. Recent trends - such as engaging children and women promoting lone wolf attacks, and using social media - and future threats, along with ways to counter them. Author analyzes content from more than 9,800 terrorist websites and selects their most important kinds of web activity, describes their background and history, and surveys their content in terms of kind and intensity, the groups and prominent individuals involved, and their effects. Weimann also considers cyberterrorism against financial, governmental, and engineering infrastructure; efforts to monitor, manipulate, and disrupt terrorists' online efforts; and worrisome threats to civil liberties posed by ill-directed efforts to suppress terrorists' online activities.

In **conclusion**, we can remark communication is a form of terrorist manifestation in cyberspace when "spider web of universal proportions", allows distributed a lot of information for all kinds, including terrorist propaganda and how wonderful Paul Watzlawick one cannot communicate said.

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Gender Gap in Digital Skills in Greece

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ABSTRACT: Inequalities between men and women exist not only in economy and society but also in education all over the world. Many initiatives are launched to empower women with advanced skills in many countries. This paper describes the policies and initiatives to foster gender equality in Information and Communication Technologies (ICT)-related education and employment in Greece. National and European Union (EU) statistics show that there exists a wide gender gap in ICT-related higher education participation, employment, and salaries in Greece. Various policies and initiatives aim at empowering women with digital skills. The paper suggests a framework to fight gender discrimination in ICT across four (4) dimensions (ICT education & training, digital tools & infrastructure, people networking, ICT jobs) and three (3) axes (access, use & participate, create). The resulting framework consists of twelve (12) areas. The paper gives example strategies for some of the areas. Finally, the paper present conclusions and suggestions for future research.

KEYWORDS: digital skills, digital competence, employment initiatives, equality policies, gender differences, gender gap, gender inequality, ICT skills, equality policies

Introduction

The proliferation of Information and Communication Technologies (ICT) in everyday life brought up the need to equip all people with digital skills. This is even more pronounced during the COVID-19 period since distance isolation dictates that most activities (e.g., communication, shopping, education, work) should be done from a distance using computers and the Internet. However, in most countries there are gender inequalities in using ICT across all society sectors. Countries have taken actions to overcome such inequalities but more drastic interventions should be enforced.

According to European Unions (2020), although women count at 54% of all tertiary students in the EU in 2017, they are particularly underrepresented in the digital professions. Women hold only 17% of tech sector jobs. Although girls generally perform better than boys in the Programme for International Student Assessment (PISA) and International Computer and Information Literacy Study (ICILS) international skills tests, they do not prefer ICT jobs. Although 53% of companies trying to recruit ICT specialists report difficulties in finding qualified people, only 1 to 6 ICT specialists in the EU is a woman. That means, only 17% of the almost 8 million employees in ICT are women. Reasons that discourage women to follow a digital career include their low digital skills and the female-unfriendly working conditions. The European Council (2018) called on the EU Member States and the Commission to prevent and combat gender stereotypes, to reduce gender segregation in the labour market, to promote the participation of women in ICT jobs, and to promote the development of basic digital skills for both women and men.

EIGE (2019) found the following: i) although young women and men have similar digital skills, young men indicate higher confidence in their digital skills; ii) digital spaces are male-dominated spaces which obstructs young women to participate; iii) political activities online are more fraught for girls and young women; iv) exposure to online harassment has far reaching effects on young women's online engagement; v) gender norms are intensified online. The study on Women in Digital Age (iclaves, 2018) reports that there is a growing gap between men and women's participation in the digital sector in education, career, and entrepreneurship. More specifically, the study found the following: i) There are four times more men than women in Europe having ICT-related studies. There is a decrease in women following ICT-related higher education when compared to 2011; ii) The share of men working in the digital sector is 3.1 times greater than the share of women; iii) The annual productivity loss for the European economy of women leaving their

digital jobs to become inactive is calculated to be about EUR 16.2 billion; iv) Although female owned start-ups are more likely to be successful, there is decrease in participation, leadership, and investment in the entrepreneurial digital sector. The recent study Women in Digital Scoreboard (2019) reports that only 17% of ICT specialists are women. The same ratio for STEM graduates is 34%. Women in the information and communication sector earn 19% less than men. In digital skills, there is a gender gap of 11%. The gap is higher for “above basic skills” and especially for those above 55 years. The proportion of women among doctoral graduates in the fields of ICT is 21% (She figures, 2018).

So, European Union’s (2020) top priority is to ensure that girls and young women are equally represented in digital studies and careers. Therefore, the European Commission aims to support the development of higher education curricula which attracts women to engineering and ICT. Recently, CEOs of European tech firms signed a CEOs Declaration (2019) expressing the intent to achieve gender balance and provide equal opportunities in their companies. The *European Network on Women in Digital* (<https://eurogender.eige.europa.eu/>) aims to promote greater participation of girls and women in digital studies and careers across the EU. Connecting organizations that work to combat gender stereotypes, encourage ICT related studies and promote diversity in digital professions can help pool efforts and create critical mass.

Digital Skills and Greek Women

In Greece, a variety of authorities promote gender equality in all society and economy sectors. For example, the Greek law protects working women with respect to discrimination before, during and after employment. Furthermore, the law protects maternity, motherhood, child care and nurture, treatment of sick and/or special needs child, as well as other cases.

In Greece there are various authorities that promote equal treatment with respect to gender (among others). For example, the “*Greek Ombudsman*” (<https://www.synigoros.gr/>) investigates cases of violation of the law against gender discrimination either in the private or in the public sector. Specially, the “*General Secretariat for Family Policy and Gender Equality*” (<https://www.isotita.gr/>) plans, coordinates and implements policy and projects for gender equal treatment. Its research division “*Research Centre for Gender Equality*” (KETHI, <https://www.isotita.gr/>) implements interventions for eliminating gender discrimination.

Regarding Internet skills, 68% of women are regular Internet users (versus 71% of men); 27% of women have never used the Internet (versus 23% of men); 33% of women use online banking (versus 42% of men); 7% of women use professional social networks (versus 9% of men); 7% of women are doing an online course (versus 7.2% of men); 4.8% of women use online consultations or voting (versus 5.5%); 33% of women use e-government services (versus 40% of men) (Women in Digital Scoreboard, 2019).

Furthermore, 44% of women have at least basic digital skills (versus 49% of men); 20% have above digital skills (versus 23% of men); and 50% have at least basic software skills (versus 55% of men). According to the recent Gender Equity Index 2020 (EIGE, 2020), among Greek people aged 25-29 year, women have above basic digital skills at 46% (versus men at 37%). Among Greek scientists and engineers (aged 25-64 years) in high-technology sectors, there are 21% women (versus 79% men) (similar to the average EU gender gap). The gender pay gap in ICT in Greece is 12% (similar to the average EU which is 11%) (EIGE, 2020).

According to EIGE (2019), less women than men use computers daily (a gap of 16%). Also, fewer women than men post opinions on civic or political issues or take part in online voting. More specifically, the gender gap is over 10% regarding youth who in the last 3 months had posted opinions on civic or political issues online, or participated in online consultations or voting, for example to decide or express their opinion on urban planning, or signing a petition.

Gender differences in Informatics Education

In Greece, gender inequalities start appearing even at the lower secondary education, where less female students than male students engage in coding/programming activities, and this trend continues in upper secondary education since 85 % of female students never or almost never engage in coding/programming in comparison to only 66 % of male students (European Commission, 2019). During EU Code Week, a total of 368 coding activities were held throughout Greece, covering 37.200 participants whose average age was 11, and 44.4 % of participants were girls or women (DESI – Greece, 2019). In a national activity to promote the inclusion of coding in school curricula, organized by the Greek Coalition for Digital Skills, females were 52% of the participants (108 children aged 8-11, and 27 ICT teachers from primary schools all over Greece).

Berdousis and Kordaki (2014) found that more male than female students studied in Informatics departments at Greek Universities in the decade 2003-2012, while there were more female students in the Universities. Furthermore, this gender gap widens over the years. Kordaki and Berdousis (2017) found that there were fewer female students than male students in computer science and engineering university departments (freshmen, graduates, master's degree graduates, and Ph.D.s) during the decade 2002–2012 in Greece. Similar result hold for informatics teachers in secondary education. Investigating the views of Prospective Computer Engineers (PCE) regarding gender issues in computer science and engineering (CSE), Tsagala, and Kordaki (2005) found that one out of three male PCEs do not trust women as University Professors in CSE while half of the female PCEs feel uncomfortable with the absence of female faculty members; one out of three male PCEs would prefer a job in Industry while the same percentage of female PCEs expressed that they would prefer a job in the Public Sector. In another study involving Greek computer science students, it was found that female university students preferred courses focusing on theoretical computer science, and social and human aspects of CS, while males preferred courses concentrating on hardware and software engineering (Berdousis and Kordaki, 2018). The proportion of women among doctoral graduates in ICT dropped from 23.2% (2013) to 13.6% (2016) (She figures, 2018). The compound annual growth (%) of women doctoral graduates is -25.8.

Gender differences in ICT Professions

According to Women in Digital Scoreboard (2019), 0.4% of total employees are women ICT specialists (versus 2.5% men). In 2019, there were 17,900 Greek women and 47,400 Greek men employees with ICT education (Eurostat, 2019). Women counted 27.4% of all Greek employees with ICT education compared to an EU average of 17.3% (Eurostat, 2019). A significant gender gap is also observed with only 10.9 % of employed people in the ICT sector being women (DESI - Greece, 2019). Pappas et al. (2017) found that there are large gaps and mismatches between the supply and demand for ICT skills in Greece. Women believe that they are under-represented in the ICT sector, and there is a gender gap in ICT-related professions. The “*Greek Chapter of the ACM-W*” (*ACM's Council on Women in Computing*, <http://acmw-gr.acm.org/index.php/en/>) association strives to promote the role of ICT women in society, education, research, and professions in Greece.

Gender differences in ICT professorships in Greek Universities

Berdousis and Kordaki (2018) found that women represent only a small percentage of Greek university faculty in Informatics for every year during the decade 2003-2013. Furthermore, this gender gap was even wider at the highest rank positions of professorships.

Public policies and initiatives to support Greek women in ICT professions

During the last years, Greek government recognized the importance of empowering women with digital skills and enabling their integration in men-dominated sectors. The "*National plan for gender*

equity 2016 - 2020" (NPGE, 2017) issued as Objective 5 ‘Motivating women to use ICT’ urging for immediate implementation of actions to raise awareness, motivate and train the female population in ICT and digital skills.

The “*National Action plan for Digital Skills and Jobs in Greece*” (GNAP, 2018) initiative aims at fostering the dialogue between Greek women and companies by promoting the attractiveness of ICT careers among women and strengthening the trust of ICT companies, especially SMEs, in women as employees. One of its objective is to increase the digital skills of girls and women in order to integrate the female talent into the workforce. It also sets up the following two priorities to promote gender equality: i) Priority 11: Empower Women & Girls to Go Digital (WGGD) in Greece; ii) Priority 12: Better Employment Conditions for Female Talent with Digital Skills. In addition, it sets up the following three Strategic Objectives (SO): i) SO 16: Re-starting for the WGGD Pledge; ii) SO 17: Up skilling Female labor force with Targeted Training activities; iii) SO 18: Innovation Hub for Women in Technology.

The “*Women and Girls Go Digital initiative*” (WGGD), coordinated by the General Secretariat for Family Policy and Gender Equality, brings together 22 Greek and 4 European stakeholders desiring to support women during all steps in their career enhancing their digital skills and jobs, and strengthening the women’s role in the digital economy. It organizes workshops and training, promotes women involvement in digital activities and employment, transfers knowledge from best EU practices, and participates in related projects. For example, in the e-Women project, European Centre for Women and Technology (ECWT) provides knowledge-transfer based on best practices from Norway with the goal to promote, in Greece, women’s new employability paths through digital skills, support tech startups and prepare a new business innovation center (hub) in Athens.

More specifically, with regards to “SO 17: Up skilling Female labor force with Targeted Training activities”, “Action 30: Targeted Training activities a Digital Up skilling of Greek Female labor force” plans the following activities: 1) ICT training; 2) Exploiting the Internet to find information and work; 3) Updating existing public digital services and exploiting e-learning; 4) Exploiting ICT software and applications in the culture sector; 5) Creation of workshops to produce ideas and proposals for the creation of innovative tools tailored to the needs of vulnerable populations; 6) Training in e-entrepreneurship and social networking tools; 7) Provision of certifications which would be very useful in finding a job.

With regards to “SO 18: Innovation Hub for Women in Technology”, “Action 31: Development of an Innovation Hub for Women in Technology” aims at: i) Monitoring the use of ICTs by women and men in the framework of the "Gender Monitoring Observatory" and the preparation of a relevant newsletter on a yearly basis; ii) Specialized actions for the development of digital skills for special population groups. Also, “Action 32: e-Leadership promotion for women in public sector” aims at: i) promoting e-Leadership for women in public sector; ii) Developing Career Days for Women in Public Sector in the context of which women will encourage to design a carrier path based on digital skills and e-Leadership.

The “*Innovation and Employability for Women*” (“*ie-Women*”, <http://iewomen.iit.demokritos.gr/>) project organized educational programs in entrepreneurship and social media for improving employability of women and female entrepreneurs in digital economy. It aims at ICT training accompanied by the development of women self-confidence and the breaking of negative attitudes towards computer use. It promotes ICT professions to be made more attractive as a career choice for women, and encourages the strengthening of collaboration across relevant stakeholders.

The “*women4it*” project (<http://www.women4it.eu>) goals include the following: i) To create attractive employment opportunities for young people in the digital economy; ii) To provide access to an online employability profiling tool for individual testing; iii) To ensure free and available digital training and opportunity so as to help individuals access a community of leading European

digital workforce; iv) To promote IT jobs for women as a source of economic growth and role models.

The “*eSKILLS4ALL*” project (<http://www.eskills4all.eu>) aims at empowering unemployed adults (with a focus on women) through training. The project supports low-skilled unemployed adults (with a focus on women) to increase their digital literacy, and helping them in their search for employment.

A Proposal for Gender Digital Equity Strategy

Analyzing the various policies and initiatives, it is clear that most of them plan and provide to women ICT training, Workshops, Career Days, Marketing, Awards, People Networking, Hubs and similar actions. Organizing all these activities under a common framework, this paper proposes the following framework for Gender Digital Equity Strategies (Table 1). Women should have Access to ICT Education & Training; Digital Tools & Infrastructure; People Networking; ICT Jobs. Having Access means that they can only find and watch opportunities for ICT Education & Training; Digital Tools & Infrastructure; People Networking; ICT Jobs. For example, they can only read a book about computer networks, or watch a video lecture on artificial intelligence, or know that there are digital tools, e-communities, and jobs (and their requirements, obligations, roles, salaries) on specific ICT areas (e.g. cybersecurity). The fact that they can have Access to resources does not mean that they are free to also use, participate or even create new ones. The next level is to provide them the ability and tools to Use & Participate in ICT Education & Training; Digital Tools & Infrastructure; People Networking; ICT Jobs. For example, they can fully participate in a class (i.e., interact, communicate with teachers and peers, make assignments & projects, take exams, etc.), in an e-community (interact, communicate, and collaborate with others in the community), in a job (work). Finally, the third level is to provide them the ability and tools to Create ICT Education & Training; Digital Tools & Infrastructure; People Networking; ICT Jobs. For example, an initiative could give women the ability to Teach ICT subjects, or to develop new digital tools, or create networks of professionals and businesses in specific ICT areas, or even create new ICT businesses as e-entrepreneurs. For each of these 12 areas (3 axes times 4 dimensions), the strategy could provide to women the appropriate activities. For example, in the area of Create ICT Education & Training, women should be given the opportunities, resources, and tools to develop new educational material and teach them to others. In the area of Create ICT Jobs, women should be given the opportunities, resources, and tools to create new businesses and ICT jobs.

Table 1. Framework for Gender Digital Equity Strategies

	ICT Education & Training	Digital Tools & Infrastructure	People Networking	ICT Jobs
Access				
Use & Participate				
Create				

Conclusions and future research

This paper describes policies and initiatives to decrease gender inequalities in ICT-related education and employment in Greece. Various studies show that there exists a wide gender gap in ICT-related higher education participation, employment, and salaries in Greece. In addition, the paper proposes a framework for Framework for Gender Digital Equity Strategies across 12 areas (3 axes times 4 dimensions).

Future research may consider to compare the female participation in various ICT sectors (e.g. ICT user support, digital marketing, software developing, managing networks, cloud computing, databases, artificial intelligence, business analytics, security). Also, future research may examine the relationship between women holding an ICT degree and their job type, their job level as well their employment sector (e.g. commerce, finance, education, research, telecommunications, transportation, logistics, energy, utilities).

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The Role of Digital Media in Public Awareness During the Coronavirus (COVID-19) Pandemic

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ABSTRACT: This paper aims to monitor the role of digital media in facing the COVID-19 pandemic, as the media play a prominent and essential role in building images of reality among the public through the information they provide, and from here comes the role of the media in general and digital media in particular in contributing. In creating awareness among the masses of how to deal with this crisis, the media play a fundamental role during disasters and crises, as they work to deliver the necessary information to the public and the general public, as well as interpret events, provide moral support to affected communities, and contribute to digital coverage that is characterized by speed and keeping pace with events. Disasters and crises play a very important role in determining and shaping trends towards what is happening. The results indicate that some Arab countries have taken advantage of the effective role of digital media in facing the crisis and raising awareness about it, and the Kingdom of Saudi Arabia scored first in facing this crisis by launching many applications that served citizens very much during the crisis and by launching many digital means on websites and their issuance through mobile applications, which facilitates the process of communicating with citizens, educating them and protecting their health, which had a great impact on controlling the crisis.

KEYWORDS: Digital Media, Awareness, Coronavirus

Introduction

With the beginning of this year 2020 AD, the whole world witnessed a dangerous crisis. And the COVID-19 pandemic. Authority, as this pandemic has caused more than thirteen million people around the world, and nearly a million people died within a first period (WHO 2020), as this period began the emergence of a new type of virus in the city of "Wuhan" of the strain coronaviruses, or what is known as the Middle East respiratory intake, and it was called COVID-19, and the virus quickly spread throughout China in a state of emergency in the country, and the city of Wuhan—the epicenter of the emergence of the virus—was isolated from the rest of Chinese cities.

Here comes the role of the media in contributing to the formation of awareness among the masses to deal with and deal with these decisions, as the media play a fundamental role during disasters and crises as they work to deliver the necessary information to the public and the general public, as well as interpret events, and provide moral support to the afflicted communities. It also contributes to the press, radio and television coverage of disasters and crises, with a very important role in determining and shaping trends towards what is happening.

Media and Crisis Management

The media has become an increasing role and a serious importance as one of the weapons of the present age in its coverage of crisis management, due to the enormous capabilities it has, represented in its rapid transmission, crossing borders, and overcoming obstacles with its readable, audiovisual means, and because of its tremendous capabilities on psychological impact on Individuals and intellectual control and persuasion of the public in different societies, and then the ability to control and direct their behaviors (Salam & Fayed 2019, 252).

And when the expected crisis is general and global, the role of the media in carrying out its informational, educational and persuasive tasks increases. Through awareness, guidance and direction through direct communication between the operations rooms for facing crises and the audience of viewers, listeners and readers to warn them of the imminent dangers that have been foreseen, and when, where, and where they will occur and their paths (Nimmo & Combs 1985, 12).

The importance of new media is to alleviate crises by providing the public with facts to limit the spread of rumors and enlighten individuals to help them form a correct public opinion. And a source of fallacies, especially at the present time when the new media in various forms and social networks have topped the media scene and have become the means closest to the public, and what is acceptable in social networks has become acceptable in real society.

Just as the media can spread reassurance among people during crises by spreading facts and providing balanced treatments, it can also contribute to increasing the levels of anxiety, tension and blurring of vision among the public, which is reflected negatively on various sectors, and perhaps what helps in this is the nature of the media. The new itself in terms of being open means difficult to control, and spread rumors and information alike in a large and rapid manner, with which it is difficult to monitor and track everything that is circulating among people. Therefore, addressing the crisis in the media requires the integration of private and governmental media efforts. Institutions and individuals within a general vision to protect the country and immunize it from the resulting influences (Al-Buhairi 2008, 25).

Identifying aspects and deficiencies in media handling of crises and disasters

If the science of crisis and disaster management emphasizes the necessity of achieving an integrative approach and a comprehensive vision in dealing with crises and disasters, which is based on full cooperation and interaction of all sciences related to the crisis and the social, political, economic, psychological, moral, symbolic, media and cultural challenges it poses. Media has become one of the sciences of critical importance in crisis and disaster management. This science shows that disaster management includes setting the goals of prior plans, which include several steps: First: the preparation plan (pre-crisis), second: the operations plan (during the crisis), third: the plan to remove the effects (after the crisis) and finally the alternative plans (regionally and nationally).

Features and characteristics required in crisis and disaster notification

If scholars and those interested in the science of crisis management have emphasized that any disaster or crisis consists of three main elements: threat - lack of time and its limitations - surprise, then they also confirmed that these three elements impose on the media a special, different and distinct performance that is characterized by responsibility and good Dealing with this disaster and crisis in a way that helps raise the level of public awareness of it, and managing it in a way that reduces its losses to the lowest extent possible ... Hence the literature in the field of crisis management has concluded a number of important features and characteristics that must be met in the media treatment and media discourse During a crisis or disaster, it can be summarized as follows: Keeping up with media coverage of the stages of the development of the crisis or disaster ... as previous studies indicate that media coverage of crises and disasters is supposed to pass through three main stages that keep pace with the development of the disaster crisis, namely (Graber 1980, 363):

A) The stage of information dissemination at the beginning of the crisis or disaster. Here, the media must keep pace with the public's desire to obtain all possible information about the crisis or disaster and to clarify the situation, its dimensions and effects.

B) The stage of interpreting the information: In this stage, the media must analyze the elements of the crisis, research its roots and causes, and compare them with other similar crises or disasters. And methods of containment and rescue efforts

C) The preventive phase: where the role of the media does not depend on merely explaining the problem and dealing with its elements, but rather this dimension must go beyond the media's progress in dealing with crises and similar disasters, and it focuses on the positive mechanisms that can be exploited and developed in the future in dealing with these crises and disasters.

The Kingdom of Saudi Arabia was not safe from this risk of infection with this virus, as cases of infection spread in the Kingdom of Saudi Arabia, and the Kingdom took measures to provide protection for the safety of citizens and residents and all those who intend to come to the lands of the Kingdom, to perform Umrah, visit the Prophet's Mosque, or for the purpose of tourism. On the recommendations of the competent health authorities, to take proactive preventive measures to prevent the arrival of the new Coronavirus (COVID-19) to the Kingdom and its spread, and for this reason the Kingdom's government represented by the Ministry of Hajj and Umrah decided to temporarily suspend entry to the Kingdom for the purposes of Umrah and to visit the Prophet's Mosque temporarily. The Kingdom offers tourist visas for those coming from countries where the spread of the new Coronavirus (COVID-19) poses a risk (Ali Qadri 2002).

The Kingdom of Saudi Arabia is one of the first countries that sensed the danger of the Coronavirus, and one of the first countries that made proactive and precautionary efforts to prevent the virus and limit its spread at an early stage, as it dealt with the disease seriously, as it began to prevent gatherings in public and private places, through the closure of restaurants, Then the suspension of studies and work, the closure of markets and commercial complexes, the closure of airports, the suspension of internal and external flights, the closure of mosques, the suspension of Friday prayers and the suspension of Umra

The Kingdom faced the Corona epidemic, with high professionalism, and dealt with the crisis that is roaming the world realistically, according to precautionary and proactive measures, and a daily announcement with full transparency and clarity, and that dealt with international praises, while the concern of the government of the Custodian of the Two Holy Mosques was to preserve the health of citizens and residents alike As well as preserving the safety of the pilgrims of the Two Holy Mosques from this epidemic

From the first hours and days before the announcement of the existence of any case infected with the Coronavirus in the Kingdom, a committee was formed of 13 ministries headed by the Minister of Health, concerned with following up the health status of the Coronavirus, and its membership includes representatives from the ministries: «Defense, Energy, Interior, National Guard, Foreign Affairs, Health, Finance, Media, Trade and Investment, Hajj and Umrah, and Education », the Civil Aviation Authority, the Saudi Red Crescent Authority, the Food and Drug General Authority, the General Customs Authority, the Ministry of Tourism, and the National Center for Disease Prevention and Control.

The World Health Organization praised the Kingdom's efforts to combat the coronavirus, and most of the ambassadors residing in the Kingdom praised the serious steps taken by the Kingdom of Saudi Arabia to protect its people. And those residing in it advised their citizens to stay in the Kingdom, where security, safety and comfort to live, until the sorrow was revealed.

As for the unprecedented air evacuation plan for students, their families, and everyone who wished to return under high security and health measures, from all over the world. We can only pray for the Custodian of the Two Holy Mosques ... and the officials responsible for this. This was also done for residents inside the Kingdom.

As for digital media, the Kingdom has launched many applications that have served citizens very greatly during the crisis by launching many digital means on websites and making them through mobile applications, which facilitates communication with citizens, educating them and protecting their health.

Tatman application

On April 11th, the Saudi Ministry of Health launched the "Tatman" application, with the aim of providing protection and health care to citizens and residents referred to home isolation, in order to ensure their safety and enhance their recovery procedures.

The application contains an icon for services that includes a library of educational content, test results, contact information updates, daily follow-up of health status, links to support epidemiological investigation, as well as an indicator of the number of decreasing health isolation, as well as alert notifications and automatic calls, and the application also includes an icon of beneficiaries who are «coming from travel And those in contact with infected cases», according to the official website of the Ministry of Health (<https://ta.sdaia.gov.sa/>).

The isolated people are able to communicate directly with doctors at the Ministry of Health, and they can request help through an icon in the application for continuous inquiries about their status, as well as monitoring the development of their condition. A person suspected of being infected with the virus will have transparent access to the results of the tests conducted for him by the health authorities.

Tawakalna application

Based on the keenness of the government of the Kingdom of Saudi Arabia - may God support it - to preserve the health and safety of citizens and residents on its territory from the danger of the spread of the new coronavirus; The Saudi Data and Artificial Intelligence Authority "SADAYA" launched the "Tawakalna" application, to support government efforts to confront the coronavirus.

The aim of "Tawakalna" application at its inception is to contribute to managing the process of granting permits electronically during the curfew period, for employees of government sectors, employees of the private sector, in addition to individuals, in cooperation with the Ministry of Health and a number of government agencies during the imposed period of prevention, which helped reduce From the spread of the coronavirus in the Kingdom.

During the cautious return phase, and lifting the prevention measures, the application launched several important new services that contribute to achieving a safe return, most notably clarifying the health status of the application user through colored codes with the highest levels of safety and privacy.

Because facing the corona pandemic requires the concerted efforts of the state and society, the "Tawakkilna" application has allowed individuals to contribute to this by reporting individuals and gatherings that violate the precautionary measures in place, in addition to reporting entry to the prohibited neighborhoods, which were isolated based on the discretion of the concerned authorities.

Tabaud app - we are all responsible

On the health and safety of citizens and residents on its territory from the risk of the spread of the new coronavirus; The Saudi Data and Artificial Intelligence Authority "SADAYA" has launched a "spacing" application, to support government efforts to confront coronavirus.

Pursuant to the health system and its implementing regulations in the Kingdom of Saudi Arabia, the Ministry of Health has adopted the health standards according to which the application of (spacing) has been developed, and the characteristics and functions of this application will be subject to any additional instructions issued in implementation of the regulations and provisions in the Kingdom of Saudi Arabia, in order to achieve the health and safety goal envisaged by Developing the application by involving individuals in controlling the outbreak of the emerging coronavirus pandemic, limiting its expansion in its spread, and seeking to gradually reduce restrictions imposed on social life and other activities

The application (spacing) is a means of notifying contacts of people infected with the emerging coronavirus, as individuals can download the application and use it to achieve the health goal for which it was developed.

The application sends disguised identifiers data to the smart phones used for the application, which were recorded during the period of contact with a person infected with the emerging coronavirus, accompanied by data of the devices of infected people, according to the global policies of (Google and Apple) companies, while preserving the privacy of users.

The application enables the user to obtain direct and proactive notifications in the event of discovering any recorded infection, for the purpose of requesting direct health support from the Ministry of Health in the Kingdom of Saudi Arabia.

Conclusion

Overall, countries have strived to address the corona pandemic by activating digital media mechanisms and artificial intelligence techniques and employing them in the face of this crisis. From the model of the Kingdom of Saudi Arabia, we find a successful model on the international level to address the corona pandemic.

Importantly, media platforms and applications had an important role, starting with providing services to citizens and helping them through patients, providing them with treatment and following them up periodically, which alleviated much of the crisis.

The media remains the mirror of society and guides public opinion for everything that is in the public interest, as these applications represented a watershed point in peoples' lives because they provided a large number of services through which digital media techniques were employed in health awareness during the corona pandemic and to reach the best desired results.

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Crimes of Smuggling in the Regulation of the Romanian Customs Code

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ABSTRACT: In Romanian doctrine, the crime of smuggling has been defined in various ways, but it has been concluded that this is the circumvention of customs duties by avoiding customs checkpoints. By committing a crime of smuggling, the perpetrator seeks to avoid the payment of excise duties, VAT, the payment of other taxes or duties, as well as the avoidance of rules prohibiting the sale of certain goods or merchandise. The aim of the paper is to bring to the attention of the general public both theorists and legal practitioners, the content of the criminalization norm regarding the crime of smuggling, the object of the crime, the subjects of the crime, its place, objective side, subjective side, but also forms of crime. This paper is also intended to address some procedural issues regarding the prosecution, investigation and sanctioning of those who commit such crimes.

KEYWORDS: smuggling, assimilated smuggling, skilled smuggling, jurisprudence, mitigating circumstances.

Headquarters of Matter

The crime of smuggling is provided by the Customs Code at art. 270 having the following content:

(1) The entry into or removal from the country, by any means, of goods or merchandise, through places other than those established for customs control, constitutes the crime of smuggling and is punishable by imprisonment from 2 to 7 years and the prohibition of certain rights.

(2) It also constitutes a crime of smuggling and is punished according to par. (1):

a) the entry into or exit from the country through the places established for customs control, by evasion from customs control, of goods or merchandise to be placed under a customs regime, if the customs value of the stolen goods or merchandise is greater than 20,000 lei in the case of products subject to excise duties and more than 40,000 lei in the case of other goods or commodities;

b) the entry into or exit from the country, twice during a year, through the places established for customs control, by evading the customs control, of the goods or merchandise to be placed under a customs regime, if the customs value of the goods or of the stolen merchandise is less than 20,000 lei in the case of excisable products and less than 40,000 lei in the case of other goods or commodities;

(3) They are assimilated to the crime of smuggling and are punished according to par. (1) the collection, possession, production, transport, taking over, storage, delivery, sale and sale of goods or merchandise to be placed under a customs procedure knowing that they originate from or are intended to be smuggled.

Pre-Existing Conditions

The legal object of the crime of smuggling consists in the social relations appeared as a result of the establishment of the customs regime, customs regime which, according to art. 4 point 20 of the Customs Code consists in free circulation, transit, customs warehousing, inward processing, processing under customs control, temporary admission, outward processing and export. As regards the material object of the crime, it is the goods or merchandise brought in or out of the country or which is the subject of smuggling or which are intended for the commission of that crime.

The active subject of the crime is not qualified, any natural or legal person being able to commit this crime. Moreover, if the active subject is a civil servant and facilitates smuggling for

the purpose of receiving money or other benefits, he will be liable, as established in judicial practice, both for the crime of bribery and for complicity in the crime of smuggling (The defendants did not fulfill their duties, intentionally in order to facilitate, thus, the commission of smuggling by the defendant C.V. by illegally introducing cigarettes into the country, this independent criminal activity being the realization of the purpose for which the benefits were received, and not an element of the objective side of the crime of bribery - High Court of Cassation and Justice, Criminal Section, Decision no. 2083/2004). Also, the crime of smuggling can be committed in competition with the crime of organized criminal group. In this regard, the High Court of Cassation and Justice ruled that “the criminal group exists in the case, the defendants acted in a coordinated manner, each took certain roles, the agreed criminal acts are serious and they involved obtaining illicit material benefits. And the act of introducing goods or merchandise into the country, through places other than those established for customs control, committed by several persons together, and meets the constitutive elements of the crime of smuggling” (High Court of Cassation and Justice, Criminal Section, Decision no. 3238/2008).

The passive subject of the crime of smuggling is the state, holder of the social value protected by the establishment of the incrimination norm.

The material element of the objective side is an act of bringing into or leaving the country goods or merchandise subject to the customs procedure, through a place other than that established for customs control.

An unresolved legal issue in judicial practice has endorsed the legal classification of the possession of excisable products subject to marking outside the tax warehouse, without being marked or improperly marked or with false markings, beyond the limits provided by law, knowing that they come from smuggling. By decision no. 17/2013, pronounced in resolving an appeal in the interest of the law, the united sections of the High Court of Cassation and Justice ruled that: *“The act of possessing excise goods subject to marking outside the fiscal warehouse, without being marked or improperly marked or with false markings, over the limits provided by law, knowing that they come from smuggling constitutes the crime provided by article 270 para. (3) of the Customs Code”*.

Also, another issue settled by the High Court of Cassation and Justice, this time by pronouncing a decision to resolve a question of law, was whether *“in relation to the crime of smuggling, if the goods which are the subject of the crime have been identified and made unavailable for confiscation,, both the confiscation of the respective goods and the author (s) to pay customs duties, excise duties and value added tax, calculated in relation to the customs value of the confiscated goods or confiscation of the respective goods”*.

The immediate consequence is the creation of a state of danger for the customs regime and, in most cases, the damage to the public budget, and equivalent to the amount of money not paid as a result of the passage of goods through another place than established by law. The causal relationship does not raise practical problems, resulting from the materiality of the deed.

Subjectively, the crime of smuggling is committed with direct or indirect intent. The preparatory acts are incriminated as an independent crime in the situation in which they realize the constitutive content of the crime provided in article 270 para. (3). The attempt is punished, and if the crime is committed by one or more armed persons or by two or more persons together, in their charge will be retained the aggravated form of the crime provided by article 274 of the Customs Code.

Qualified Smuggling

The assimilated crime of smuggling consists in the introduction or removal from the country, without right, of weapons, ammunition, explosive materials, drugs, precursors, nuclear materials or other radioactive substances, toxic substances, waste, residues or hazardous chemicals.

The legal object is identical to that of the crime of simple smuggling. What differs, however, is the material object of the crime, which, in the case of qualified smuggling, consists of weapons, ammunition, explosives, drugs, precursors, nuclear or other radioactive materials, toxic substances, waste, residues or hazardous chemicals.

It is also essential for the detention of qualified smuggling that the introduction or removal from the country of the objects that constitute the material object of the crime be carried out without the right (Hotca coord. 2019, 208).

Assimilated Smuggling

The collection, possession, production, transport, taking over, storage, delivery, sale and sale of goods or merchandise to be placed under a customs procedure knowing that they come from smuggling or are intended for its commission constitutes the crime of assimilated smuggling provided by article 270 para. (3) of the Customs Code.

Regarding the incrimination of the crime of assimilated smuggling, the Criminal and Juvenile Section of the Alba Iulia Court of Appeal notified the High Court of Cassation and Justice and requested it to issue a preliminary ruling to resolve a legal issue regarding the interpretation of the provisions of article 270 para. (3) of the Customs Code. CA Alba Iulia asked the Supreme Court to establish whether the notion of smuggling used by the legislator in the provisions of article 270 para. (3) in the phrase “knowing that they come from smuggling” refers to the crime of smuggling within the meaning of article 270 para. (1) and (2) or the notion of smuggling in the broadest sense.

Following the admission of the notification, the HCCJ established that the notion of “smuggling” used by the legislator in the provisions of art. 270 paragraph, (3) of Law no. 86/2006 in the phrase “knowing that they come from smuggling” refers to smuggling consisting in the introduction into the country of goods or merchandise to be placed under a customs procedure through places other than those established for customs control, by evading customs control. Obviously, in this situation it is necessary to prove that the person accused of committing this crime had the representation of the way in which the goods he owned entered the territory of Romania illegally.

Considering that article 270 para. (3) represents an assimilated modality of the smuggling crime, it is necessary to reveal the provisions of article 270 para. (1) of the Customs Code. Article 270 para. (1) states that “the introduction or removal from the country, by any means of goods or merchandise through places other than those established for customs control, constitutes the crime of smuggling and is punishable by imprisonment from 2 to 7 years and the prohibition of certain rights”.

Taking into account the provisions of article 270 para. (1) referred to in article 270 para. (3) and in conjunction with Decision no. 32/2015 for resolving legal issues, we can say without denying that in order to be in the presence of a crime of smuggling in the assimilated form must exist previously, to be discovered and proven a crime of smuggling in the standard version.

Also, with regard to the crime of assimilated smuggling, the question arises as to whether mitigating circumstances should be retained in the situation where the defendant pays the damage caused before the first trial.

From our point of view, in such a situation, the mitigating circumstance provided by article 75 paragraph 1 lit. d) Criminal Code, the crime of smuggling provided by article 270 para. 3 of Law no. 86/2006 on the Romanian Customs Code not falling within the categories of offenses expressly and limiting provided by the text of the law, regarding which the respective mitigating circumstance is not incidental. The crime of smuggling cannot be integrated in the phrase “crime regarding the state border”, within the meaning of article 75 para. (1) lit. d) Criminal Code. This is because the crimes “regarding the state border”, with this name used by the legislator in article 75 para. (1) lit. d) Criminal Code, are incriminated in the Special Part,

Title III, Chapter II of the Criminal Code, chapter in which the crime of smuggling is not incriminated, the headquarters of the matter being Law no. 86/2006 on the Romanian Customs Code. It is true that the crime of smuggling - both in the standard form and in the assimilated form - represents (as shown in the recitals of the decisions of the High Court of Cassation and Justice no. 17/2013 pronounced on appeal in the interest of the law and no. 11/2015 pronounced for resolving legal issues in criminal matters) a complex crime, which criminalizes a specific way of evading taxes, namely by introducing or possessing goods that entered the country in violation of the legal regime of the border and that the object the legal nature of the crime of smuggling is a complex one, because it defends both the regime of administration of taxes, fees, contributions and other amounts due to the general consolidated budget (main legal object), and the state border regime (secondary legal object).

However, the classification of the crime of smuggling incriminated by Law no. 86/2006 regarding the Customs Code, in the enumeration provided by article 75 para. (1) lit. d) Criminal Code, in the absence of an express reference of the above criminal norm to the crimes incriminated by the Customs Code, would determine the extension, to the detriment of the defendant, of the inapplicability of the mitigating circumstance provided by article 75 para. (1) lit. d) Criminal Code, in cases not expressly provided by the legislator.

Because the headquarters of the matter of border crimes (namely those crimes committed for the purpose of illegally crossing the state border of persons, means of transport, merchandises or other goods, as defined by article (1) letter l of Emergency Ordinance no. 105/2001 of 27 June 2001 on the state border of Romania) is different, respectively the Special Part of the Criminal Code and the Customs Code and given the fact that only for the first category of offenses (found in the Special Part of the Criminal Code) the legislator expressly provided that they represent “offenses state border”, it is not possible to extend this category to other crimes that are not found in the Special Part, Title III, Chapter II of the Criminal Code, in the absence of the express will of the legislator in this regard.

The criminal law being of strict interpretation, the categories of crimes to which the mitigating circumstance provided by article 75 para. (1) lit. d) The Criminal Code is not applicable to them are strictly those found in the enumeration of the criminal norm, enumeration that does not refer to the crimes incriminated by the Customs Code.

Therefore, the retention of the mitigating circumstance provided by article 75 para. (1) lit. d) Criminal Code in favor of the defendant - provided that the documents and works of the file show that he fully covered the material damage caused by the crime, until the first trial, the defendant no longer benefiting from this circumstance within 5 years before committing the deed is fair and legal.

Conclusions and Proposals

In principle, from our point of view, crimes of smuggling have a well-structured regulation in Romanian legislation, but, obviously, this can be improved.

It should be noted that article 270 para. (3) of the Customs Code (which contains the assimilated version of the crime) does not provide among the constituent elements, in the manner of possession or storage of cigarettes from smuggling (for example, the purpose of resale), but only the circumstance of knowing the origin of goods. In other words, the person in question also commits the crime in question and buys or stores even a single pack of cigarettes, or a small quantity of contraband cigarettes, as one of the alternative material elements of the crime in question will be fulfilled.

However, in those circumstances, in the event that a person buys (therefore owns) a small quantity of cigarettes or stores them, if the prosecutor does not waive the criminal investigation, but orders the prosecution, there is no procedural means by which the judge may exclude such an act in the sphere of criminal wrongdoing.

That is why we consider that the lack of a value threshold below which the act in question no longer constitutes a crime (as provided, for example, even in Article 270 paragraph (2) of the Customs Code, or in Article 2961 paragraph (1)) of the Fiscal Code, leads to a violation of the principle of *ultima ratio in criminal matters*.

In this regard, we must also consider relevant statement of reasons of the new Criminal Code, which found, among other things, that the elaboration of this normative act analyzed all the criminal provisions contained in the special laws, including the decriminalization of certain facts provided in the special legislation and their contravention, where appropriate, whereas compliance with the principle of minimum intervention governing the criminal law of any rule of law requires recourse to the criminal protection mechanism only in cases where the protection afforded by the regulations of other branches of law is insufficient.

We emphasize, again, that the issue of the lack of a value threshold is not purely theoretical, as in the role of the courts have been in recent years, after the entry into force of the new Criminal Code, numerous cases in which defendants have been prosecuted for derisory facts (subsistence crime). For example, we mention the file no. 15913/302/2016, in which the defendant was sent to court for the sale of 10 packs of cigarettes, and another defendant for 2 packs of cigarettes.

The provisions of article 181 of the old Criminal Code allowed the exclusion from the sphere of criminal wrongdoing of petty deeds. It so happened that, pursuant to this article, by ordinance no. 10718/P/2010 dated 20.12.2012, respectively by ordinance no. 311/P/2011 dated 07.02.2012, the Prosecutor's Office attached to the District 5 Court of Bucharest considered that the possession by a defendant of 848 packs of contraband cigarettes, respectively 763 such packs, does not present the degree of social danger of a crime, for which reason he was fined only an administrative fine.

The discrepancies between the solutions provided under the old substantive regulations and those that can be available today highlight the need for the intervention of the constitutional court to comply with the principle of *ultima ratio in criminal matters* and, implicitly, to comply with constitutional guarantees regarding the right to a fair trial.

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Improving Environmental Protection Legislation from the Perspective of Identifying Pestilential Odors

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ABSTRACT: The study follows the analysis of European legislation and national legislation in Romania on the olfactory discomfort noticed in the open air, starting from the situation of City of Brasov from Transylvania, where residents often noticed in 2019, the existence of pestilential odors in certain areas of the city, which led to numerous complaints to public authorities. This particular case requires the identification of mechanisms by which substances with an olfactory impact can be identified and subsequently correlated with ambient air quality, in order to determine whether it represents a real danger to the health of exposed inhabitants. These mechanisms can be applied more or less by different competent authorities in the field, but the applicable legal framework must be sufficiently elaborated to allow concrete results to be obtained. Therefore, beyond a potential subjectivism related to the sensitivity to odors and implicitly to the regulation of their monitoring and the establishment of measures in order to prevent and reduce the olfactory discomfort, certain aspects (identification of the source of smell, establishment of measurement/determination methods, technical possibilities monitoring and measurement of odors) requires a thorough analysis of the situation created, the article notes certain shortcomings in the legal framework governing this area and brings proposals to improve it.

KEYWORDS: law, pestilential odors, air, mechanism

Introduction

The right to health care is unanimously recognized by international regulations and is found under the protection of constitutional norms in most states of the world.

At the Council of Europe level, there is no separate article in the European Convention on Fundamental Rights and Freedoms, but the jurisprudence of the European Court of Human Rights, through its creative spirit, has often referred to the existence of the right to a healthy environment, indirectly, by integrating it into other rights already enshrined at European level, such as the right to private property, the right to life or the right to privacy. In most cases, European case law has extended the protection of privacy provided for in Article 8 of the Convention to the healthy environment in which man has the right to live (Sumudu 2006, 17).

Thus, in *Guerra and Others v. Italy*, the Court held that there were direct consequences of the production of noxious substances by the activity of a neighboring chemical plant on privacy, and in *López-Ostra v. Spain*, the Court ruled that by placing a treatment plant of wastewater, with adverse effects on the applicant's private and family life, in the vicinity of her home, the State concerned did not ensure a fair balance between the general interests, embodied in the present case by the need to build such a station and the applicant's right to benefit from a healthy environment, as defended by art. 8 of the ECHR (Bârsan 2006, 599).

More recently adopted, the Charter of Fundamental Rights of the European Union regulates environmental protection in Article 37, stating that "Union policies must provide a high level of environmental protection and quality improvement, to be ensured in accordance with the principle of sustainable development".

Directive 50/2008 of the European Parliament and of the Council of the European Union on air quality and cleaner air for Europe also deals with ways to combat pollutant emissions at source and to identify and implement the most effective pollution control measures. reducing emissions at local, national and Community level. Accordingly, the preamble to the Directive states that emissions of harmful atmospheric pollutants should be avoided, combated, or reduced

and appropriate targets for ambient air quality should be set, taking into account World Health Organization standards, guidelines, and programs.

At the national level, Romanian legislation protects the right to a healthy environment through art. 35 of the Romanian Constitution and has transposed Directive 50/2008 by Law no. 104/2011 on ambient air quality (Romanian People`s Advocate Recommendation no.34/2020).

In the context of the right to a healthy environment, we question whether the existence of olfactory discomfort may, under certain conditions, be a possible harm to the right to a healthy environment, since there are currently no international limit values for this type of discomfort, and at the level of the World Health Organization were published only the indicative values for limiting olfactory discomfort, but for a small number of individual compounds and not for all odor-generating compounds.

The situation is of particular importance, as there may be various organic and inorganic chemical compounds with an olfactory impact in the atmosphere, which are not covered by Directive 50/2008 on ambient air quality and clean air for Europe: sulfur compounds; nitrogen compounds; oxygen compounds; hydrocarbs.

Deficiencies in legislation

The link between olfactory discomfort and public health is made through legislative changes that have taken place recently at the national level and which we will refer to in detail. For the time being, we will limit ourselves to specifying the content of art.64⁶ of Law no.123/2020 according to which, “in the situation where following the investigations the central public authority for health, through subordinated structures, finds the olfactory discomfort and the state of health of the population, notifies the competent authority for environmental protection responsible for issuing the regulatory acts in the field of environmental protection for the re-examination and updating of the respective acts”.

For the evaluation of odor concentration, chemical analysis techniques of odor-generating compounds or sensory methods that provide information can be used, and the choice of method must take into account certain factors (purpose, location, type of source, odor frequency).

The quantification of the sensory properties of the odor sources can be achieved objectively, the odor concentration being the targeted parameter, based on the indicative values used at European / international level, in the absence of nationally regulated values.

Also, specific equipment is needed to identify and determine odors, but the national competent authorities, namely the National Environmental Guard and the National Agency for Environmental Protection, must detain the necessary equipment to carry out measurements of these odors and thus eliminate, beyond any doubt of the existence in the air of substances which endanger the health of the population (Florea 2020, 209).

In the Municipality of Braşov in Romania, unpleasant odors in the air were found several times during 2019 by the population and, subsequently, by the competent authorities, which imposed actions to determine their cause, as well as to remedy the situation created.

Although EU legislation does not include regulations on olfactory discomfort, it is indirectly regulated by establishing measures to prevent and reduce emissions and airborne concentrations of air pollutants that can cause olfactory discomfort.

If there is an olfactory discomfort, the operator must find solutions to prevent the persistence of the olfactory discomfort. For example, Implementing Decision (EU) 2017/302 establishing conclusions on best available techniques under Directive 2010/75/EU of the European Parliament and of the Council for the intensive rearing of poultry and pigs, provides that odor emissions can be monitored using EN Standards: dynamic olfactometry in accordance with EN 13725 to determine odor concentration; ISO standards, national standards or other international standards that ensure the provision of data of an equivalent scientific quality.

Considering a potential subjectivism related to odor sensitivity and implicitly regulating their monitoring and establishing measures to prevent and reduce olfactory discomfort, certain aspects (identifying the source of odor, establishing measurement/ determination methods, technical possibilities for monitoring and odor measurement) require a more in-depth analysis and on the other hand given the many complaints reported on olfactory discomfort situations, the Romanian Ministry of Environment, Waters and Forests considered it appropriate to introduce clear regulations on monitoring and measuring olfactory discomfort.

In this regard, this ministry submitted a series of amendments to the draft law amending the Government Emergency Ordinance no. 195/2005 on environmental protection, approved with amendments by Law no. 265/2006, which among other things establishes additional measures for prevention of the reduction and control of olfactory discomfort that must be respected by economic operators, so as not to affect the health of the population and the environment.

Recent regulation of olfactory discomfort

The law on odors introduces in the Romanian legislation the term “olfactory discomfort” and introduces several control attributions and obligations on the part of the local public administration authorities for olfactory monitoring.

As a result, on July 16, 2020, the amendments adopted by Law no. 123/2020, also known as the “Law of Smells”, which, in art. 2 point 23[^]1, defines the notion of olfactory discomfort as “the generated effect of an activity that may have an impact on the health of the population and the environment, which is subjectively perceived on different scales of odors or is objectively quantified according to the national, European and international standards in force”.

The notion of olfactory discomfort management plan is also introduced: a plan of measures comprising the steps to be taken in specified time intervals, in order to identify, prevent and reduce olfactory discomfort that occurs both in the case of new facilities/ activities or existing installations/activities, as well as in case of substantial modifications of existing installations/activities.

Regarding the attributions of the public authorities, the law brings additions regarding the environmental authority, but also regarding the central public authority for health. Thus, the latter, through subordinated structures, imposes, in the framework of regulatory procedures for projects or activities that may create olfactory discomfort in residential areas, the operating conditions for compliance with hygiene and public health rules on the living environment of the population, and the authorities Competences for environmental protection responsible for issuing regulatory acts in the field of environmental protection shall include the conditions imposed by the authorities subordinated to the central public health authority in those regulatory acts. The effective application of these procedures therefore requires interinstitutional cooperation at central level.

In the same sense, art. 59 of the law mentions the fact that the central public authority for environmental protection approves together with the central public authority in the field of health methodologies regarding the prevention and reduction of olfactory discomfort.

On the other hand, the law stipulates that economic operators or owners of activities that may cause olfactory discomfort are obliged to develop the olfactory discomfort management plan, being mandatory to comply with the measures contained in the compliance program and the measures set out in the olfactory discomfort management plan. deadlines.

The economic operator or the holder carrying out activities for which it is necessary to obtain the environmental permit has the following obligations:

a) take all necessary measures to prevent olfactory discomfort so as not to affect the health of the population and the environment;

b) If the prevention of emissions of substances with a strong olfactory impact is not technically and economically possible, take all necessary measures to reduce odor emissions so that the olfactory discomfort does not affect the health of the population and the environment;

c) provides its own olfactory discomfort monitoring systems.

Otherwise, the central public authority for environmental protection shall order, in writing or in the control act, the temporary or permanent cessation of activities generating pollution, olfactory discomfort, in order to apply emergency measures or for non-compliance with the compliance program and/or the olfactory discomfort management plan, as appropriate; calls for the application of technological measures, restrictions and bans in order to prevent, limit or eliminate pollutant emissions and olfactory discomfort.

According to art. 64 ^ 5 of the law, the presence and concentration of odors in the ambient air are evaluated in accordance with the standards in force, respectively «SR EN 16841-1 Ambient air. Determination of odor in ambient air by field inspection Part 1: Grid method », « SR EN 16841-2 Ambient air. Determination of the presence of odors in ambient air by field inspection Part 2: Odor trace method 'and' SR EN 13725 Air quality. Determination of the concentration of an odor by dynamic olfactometry» or by other international standards which guarantee the obtaining of data of an equivalent scientific quality.

Brasov Case

In the Municipality of Braşov, the four air quality monitoring stations located in the city allow the continuous measurement of only the concentration of the following odor-generating organic compounds: benzene, toluene, ethylbenzene, ortho-xylene, meta-xylene and para-xylene. From the data taken from the 5 air quality monitoring stations in Braşov, no toxic substances were detected in the atmosphere, the data are made available to the public on the website www.calitateair.ro.

However, the indicated site must be modernized for easy access by citizens, who can thus be held accountable for taking measures to prevent air pollution and in order to ensure a civic education of the population.

Also, to determine the concentration of the following odor-generating inorganic compounds: ammonia and hydrogen sulfide, the results of the measurements are made available to the public on the website <http://www.anpm.ro/web/apm-brasov/rapoarte-lunare1> by Braşov Environmental Protection Agency. However, following the evaluations performed by this authority, it was found that the odors *were not generated by the compounds monitored by APM Braşov, but by other compounds*.

As already mentioned, there may be various organic and inorganic chemical compounds with an olfactory impact in the atmosphere, which are not covered by Directive 50/2008. From the description of the odor presented in the complaints registered at APM Braşov, it is probable that the odor was generated by a complex mixture of compounds in which there were indole compounds (indole/scatol). Carrying out investigations only from an organoleptic point of view, is not efficient, being necessary an equipment designed to measure environmental factors, including for determining odors.

Following the research carried out by the local competent authorities, several companies were identified which through their activity produced olfactory discomfort: companies with agricultural profile, companies with animal and bird breeding profile, a company with activity in the field of waste disposal; the activity of companies with activity in the field of constructions is constantly monitored, unplanned controls are made in areas with high real estate development, where the level of suspended dusts and sedimentable dusts is susceptible to increase (PM 2.5, PM10). As companies burning waste on construction sites were identified, remedial measures were taken and sanctions were imposed.

Regarding the odor due to the natural fertilization of the soil, the economic operators with this activity profile were checked, and following the controls, measures were imposed to prevent

the discomfort, by observing the technical procedures for incorporating manure in the soil and transporting in accordance with the legal provisions;

The authorities also stated that the olfactory discomfort that is sometimes felt may be due to possible accidental emissions from the landfill of the Municipality of Braşov, which is constantly monitored. The authorities requested the waste landfill administrator, in 2019, an impact study on the health status of the population in the area, its results not being publicly communicated.

Another initiative, this time in the field of scientific research, was to monitor and intervene immediately in air quality control by signing the partnership between the Air Force Academy Henri Coandă (2020) and the Ministry of Environment, Waters and Forests and initiating and actively participating to the elaboration of the theme “Development of the administrative capacity of the Ministry of Environment regarding the management of emergency situations generated by the risks specific to the Ministry and of the situations regarding the state of the environment”.

- involvement and supervision of the implementation of the Integrated Air Quality Plan by the Municipality of Braşov, through thematic controls;

- supporting environmental protection by participating in the project "Increasing the capacity of civil society to formulate alternative public policies to support environmental protection by regulating the applicability of forest curtain laws", a project co-financed by the European Union;

- increasing the forested areas in Braşov County;

- improving the sanitation status at the administrative-territorial units through measures with short deadlines for its implementation and continuous monitoring;

- educating and raising awareness of environmental issues and maintaining an appropriate quality of the environment.

Conclusions

However, the lack of special equipment needed to monitor olfactory odors, which can have a negative impact on the environment and the health of the population, remains a shortcoming that will have to be removed for proper implementation of the new legislative changes in the field of discomfort. olfactory, which is why we propose the allocation of funds for the purchase of equipment to determine the causes of olfactory discomfort. Otherwise, these innovative provisions will remain only a formal legal framework, for the observance of which the competent public authorities will not have the necessary means.

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The Cornerstone Imprint of Kandinsky in the History of Abstract Art

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ABSTRACT: With all forms of art being continually subjective in the process by which they are perceived and appreciated, abstract art has been no exception, facing both elicited support and criticism over the years. The greatest debate on abstract art was experienced over a century ago when the art first emerged, that is in its initial stages of development. A century ago, abstract art signified a new perception of art that was conceived and accepted only by a few people. However, the art later transformed to be accepted by many as one of the purest and most beautiful forms of art, a change that was brought about through the works and ideas presented by Wassily Kandinsky. Kandinsky had, through his artistic vision and modes of expression, led to a critical revolution in the way abstract art was visualized and conceived. Therefore, he had not only helped lay the robust foundation that governed many of the concepts in abstract art, in contemporary and modern times, but he had also helped revolutionize its framework enriching it with the elements it still carries to the modern day.

KEYWORDS: Abstract art, Kandinsky, Avant-garde, Contemporary art

Discussion

Preceding the 20th century, art was closely associated with realism, since it was always attached to “reality”. In other words, art has been a tool through which artists captured and reflected realistic elements, much similar to modern-day cameras. In fact, the invention of the camera in the 19th century had changed the common ideologies regarding the purpose and execution of art. The growth of photography, especially after the development of the first Kodak Camera in 1888, had also given artists another reason to reject realism, as there was no meaning to do what the camera is already doing; even much better.

Consequently, artists keen meaning in individual perception and this paved the way to the emergence of other art forms, most notably Cubism and Abstract Art respectively (Duiker and Spielvogel 2006). Vincent van Gogh viewed art as a profound level of spiritual experience where he was specifically interested in colors as he believed they offered unique forms of expression, almost similar to a distinctive language. He believed that artists must paint and express what they simply feel (Duiker and Spielvogel 2006). Shortly after that, the belief that the purpose of art was to reflect “reality” has fallen out of date. By that time, newly identified concepts in both psychology and physics left people unclear of what ‘reality’ really was. By the beginning of the 20th century, Pablo Picasso, a pioneer in modern art was just starting his career. He was extremely open to different variety and disciplines in painting, feeding the hunger for different styles. Also, he was serving the aim of the establishment of an experimenting and novel approach known as “Cubism” that created geometrical figures in attempt to re-create a reality to be perceived by the viewer (Duiker and Spielvogel 2006).

After the cubism style, the modern art reached a new peak in 1910 when abstract painting began. Principally, abstract art does not produce a link with reality as much with the concept of this reality. Basically, it puts and reflects reality through another form that links to illusion and offer another replacement to reality away from the main subject and focus on the principle of the subject.

Wassily Kandinsky, a Russian artist who was working in Germany, recorded and achieved the world's first paintings as a form of abstract art. Kandinsky tried to aside the old methods in representing art forms, entirely, and he assumed that art truly communicates on its own to reach souls, and so it had to prevent the old paths and ideas about visual reality and

instead focus on lines and color (Duiker and Spielvogel 2006). In the following century, Kandinsky became a founding pioneer in the growth and expansion of art, especially in abstract art.

Abstract art can be described as the art that does not paint tangible objects or familiar scenes. Instead, it utilizes equivalent shapes and senses from the surroundings that reflect and present the abstract in best form, ignoring similarities from the real visual world and disconnecting them from reality. In that sense, abstract art was able to gain its unique identity and became observed as the one of the milestone achievements in early 20th century art. Ever since then, abstract art has developed into several different types and approaches, yet with the fundamental elements still noticeable (Chilvers and Graves-Smith 2009).

Although some people were amused and astonished by the paintings of Kandinsky, others acknowledged the new artistic vision of abstract art. One of the critical figures was the reviewer and critic: Clement Greenberg who thought Kandinsky's art was rather showy and demonstrated meaningless or worthless objects. "Instead of a picture...a gimcrack is produced", commented Greenberg who obviously failed to understand the depth behind Kandinsky's paintings. Another critic: Fairfield Porter, an American critic and painter, also thought that Kandinsky's paintings had "dead areas" and that Kandinsky did not connect with the surface.

By contrast, other critics, for example, Hilton Kramer (1995) had reached the depth and meaning of Kandinsky's abstract paintings. In the article, "Kandinsky & the Birth of Abstraction", he praises Kandinsky's art and refers to his paintings as "some of the most beautiful" abstract paintings that were ever created.

Abstract art became an impressive hallmark in the history of art, and admittedly Kandinsky has helped establish the elements of this novel style. This was a result of emotional developments that came to Kandinsky throughout his long path of influences and gained experience. Because Kandinsky drew what he felt and experienced, his abstract paintings had depth and lots of meaning, however, some people seemed to fail to acknowledge the ingenuity of this new art form.

Wassily Kandinsky is credited as the pioneer of abstract painting, with his artistic ambition going even further than laying a solid foundation. He had a deep interest in music, and he proposed that there was a deep existing connection between painting and music. He wanted to align the sound through creation and to link the sight with hearing. He realized that music could create unique visual experiences for the audience through establishing connections with certain colors and moods. Based on that, viewers can find connections to musical themes in many of Kandinsky's artwork, with elements such as vivid shades and dynamic structures signifying the flow of musical notes. He simply described the relationships between color, form, and sounds. In his art: "Concerning the Spiritual in Art" and "Point and Line to Plane", Kandinsky believed that music and painting, are united through feelings with different elements to express it and express the form, color, and tone. That is why Clement Greenberg, as mentioned earlier, wasn't aware of the resemblance of music and poetry in Kandinsky's paintings. Greenberg paid attention to the surface of the pictures, but not to their evolution and depth.

Apart from music, Kandinsky's art has always been influenced by other elements in his surrounding environment. For instance, the "avant-garde" movements which affected art prominently in the 1930's and offered new routes of perception to familiar artistic pieces, was such an influential artistic stream for him (Walther and Suckale, 2005). At that time, several artists came to utilize approaches that were inspired by avant-garde yet still maintained their own identity. Aside from structures that were realistic and represented exact elements from reality, other geometric structures evolved that can create meaning and deliver new interpretations. This could be observed in Kandinsky's Bauhaus paintings where he utilized the use geometric figures together with other elements to create musical forms and movement.

Following the shut down of the Bauhaus by the Nazis in 1933 in Germany where 57 pieces of Kandinsky's works were destroyed, he relocated to France. He approached a non-permanent shelter, yet he was able to quickly build a new private circle, which ended up attracting a lot of artists from different cities. Meanwhile, was able to keep the contact at an international level. In 1936, Kandinsky took part in the "Abstract and Concrete" exhibition in London as well as the "Cubism and Abstract Art" which was based in New York. In France, Kandinsky was exposed to the exhibitions of the fauves where he was able to witness artistic expressions such as the liberation of color that inspired his art from this point onwards (Reily 2017). He also admired the art of Matisse and his application of color; however, his paintings became brighter and broke away from the Bauhaus geometry.

Kandinsky's abstraction became one of the most important art forms all over the world. Because of its ingenuity and creativity, people accepted this form and therefore it has been spread worldwide. In addition, Kandinsky had inspired lots of artists and painters: Hans Hoffman, William Baziot, Hans Hartung and Arshile Gorky. In the world of that distinct art, Wassily Kandinsky is deemed by many art historians to be the key founder of abstract expressionism, as early as from 1910 (Zeri 1999). This term: "abstract expressionism" was practiced in the United States, for the first time in 1929 recognition of Kandinsky's works (Kuhn 1957). Also, in Germany, he had a profound influential effect on the "blaue reiter" artists, facilitating the movement towards and adoption of abstract expressionism.

In addition, Kandinsky is seen by historians and artists to have established and advanced an artistic approach that is deemed revolutionary and largely influential especially in shaping art in the 20th century. He proposed that a unique piece of art can be evaluated in terms of the artist's inner motives and how well the piece can reflect his vision. This connection was more important than assessing how well the artwork connected to widely known realistic elements or how well it depicted reality. Such an approach created a greater space for the artists to be creative with their vision and with how they presented it to the audience. Furthermore, Kandinsky also proposed that a correlation exists between the artist's utilization of various artistic elements, such as colors, shapes, etc., and the resulting effect of the artwork on the audience (Bova 2003). Not only that, Kandinsky branched the artistic work into three recognizable divisions based on the artist's individual inner world which represent his artwork. The first division representing the perception of the artist to reality (impressions). The second reflecting his inner world (improvisations). And the third division reversing the collectivity conventions (compositions) (Kandinsky 2012). Kandinsky's rationales towards abstract art was extraordinarily credible regarding his associates, allowing his approaches and methods to have an extensive impact on modern art's advancement in Europe and Russia.

Although a source of inspiration for many, Kandinsky himself had been influenced dramatically during his personal and professional life. The initial impact came during his travel to Vologda, in Siberia, in 1889, when he was part of a group assigned to make ethnographic research. There, he was enormously impressed by the house decorations and colors. He was also attracted to the style of wooden churches, and moreover, he studied Vologda's folk art that left its trace in his use of colors. In addition to that experience, Kandinsky accentuated two central emotional and aesthetic encounters that touched and impacted his determination and choice to turn to arts. Kandinsky was exposed to a huge experience that left him with great impression and wonder when he first visited the French Impressionism exhibition in Moscow in 1892. And experimented the allure of Claude Monet haystack painting before perceiving it define subject. Kandinsky was captivated by the color and form merger and prompted him to speculate and questioning the audience optical perception and trying to navigate the viewer emotional impact regarding the artwork while comparing this to the normal optical influence of the pre-recognized shapes and forms. The second key experience was the musical performance of Wagner's "Lehngryn", as music integrated his artistic view and was expressed somehow in his paintings.

Kandinsky's work, his targets in the quest for an unused painting expression, is a new art conception that in general might appear to most people as mysterious and tense, as if built on a previous statement or proposition that is unrecognizable. For instance, yellow was a high ranked and main color for Kandinsky, which is considered a key to manipulate and react with the audience on an emotional level and steer their feelings. Kandinsky's shared and supported the theosophists met earlier in Germany (Kandinsky 2012). In addition, Kandinsky's childhood and youth were blended with his thoughts and also influenced his works. Moreover, he was inspired by Picasso's style and the creative treatment of geometrical shapes and forms. Kandinsky was also inspired by Claude Monet and Richard Wagner. He reciprocally also influenced key artists, like Munch and Franz Marc.

Kandinsky's composition VII came to represent amorphous forms away from reality, shared an advanced theme of apocalypse and was influenced by Theosophy and the new wave of art recognition and turned to become one of the most solid apotheosis divine purity form in art. He was also involved in the avant-garde movements which influenced art enormously in 1930, as mentioned previously. Meanwhile, Alfred H. Barr coordinated a various exhibitions which reflect his strong leading chart that revealed the abstract evolution. Further, it focuses on the metamorphosis in modern art. Also, by that time, abstract art endured massive challenges in the Nazis time being and exposed to destruction and extermination.

Abstract art faced a substantial challenge when the Nazis either destroyed or auctioned art including Kandinsky's work, prior to the Second World War.

Conclusions

Art has undergone a significant revolution during the past century. Targeting the spiritual facets and linking this form to the artist individual aspects and principles. Therefore, mind setting the perception of reality from the artists own consciousness.

Abstract art produced a new perception that caused a new form of art, which open gates to explore new horizons and arguments away from the old artistic forms and created a new platform to express art. Abstract art targets was to eliminate the effect of reality in the subject, and instead make the forms, colors and shapes make the impact and the outcome of the subject. Abstract painting is also geometric and fluid, and for that, it is completely different from realism.

A clear example of that, is the work of Wassily Kandinsky, credited as the pioneer and main influence behind that form of art during the early 20th century (Sers and Kandinsky 2016). Kandinsky was to perform a leading part in the surge of abstract art, and he argued that artists should not be evaluated correspondingly with the "inherent requirement." The widespread of abstract art was related to many artists departing from Germany accordingly to numerous societies in Europe, in addition to the United States. The Abstract art extended to spread in the consecutive for many years, and became a cornerstone to several leading artists, fine arts groups, educational acclaimed centers and faculties who initiate this type of art.

Abstract art is more than a painting, as it is an integrated expressionism that borrowed the expressionism concepts into the abstract painting (Lucie-Smith 1977). Obviously, keeping and integrating the creativity to produce art that simulates other forms but with different structure and affect. Considering the main subject as a hidden element and introduce similar concepts with new elements like lines, shape and colors. On the other hand, the figurative reality was able to reflect and produce a real structure to the painting which always suggests the subject as a real matter and main target to creativity. Therefore, art in Kandinsky's work was critiqued by several artists, and on the other hand, was credited and appreciated by others who could deeply figure out the tools utilized and the combination of feelings and views in each painting.

Kandinsky was influenced by several events in his life, and consequently, he was able to add several elements to his painting including the presentation of colors and the feeling of

sounds. Overall, the elements that represented was not important as the formation that hold the creativity in producing the artwork that reflects and symbolizes the intended subject by comparison methodologies as line, shapes and colors to put the forms in effect and explore the principle of the design behind the outlined forms, causing dramatic feelings with the black lines.

Finally, the abstract art pioneer drew what he felt and experienced, creating a wonderful canvas that carries beauty and meaning throughout different times and centuries. Kandinsky concluded his artistic view and philosophy by saying: “move in the painting, to live in the picture.”

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The Criminal Phenomenon During the Pandemic Period in Romania

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ABSTRACT: In order to commit a crime, the perpetrator goes through numerous psychological states that are decisive and determined by the social, economic, cultural, cognitive and historical factors of the environment of origin and of the one in which he is to carry out the criminal action. Whether it refers to elements such as the physical, moral or intrinsic nature of the action taken, its analysis must take into account the elements that led the person to adopt such conduct. During the pandemic period, due to the imposition of social distance, the criminal phenomenon experienced a decrease in the diversity of crimes and also a significant increase in the intensity with which illicit actions are committed in certain areas that do not require direct contact between perpetrator and victim. The article aims to analyze some such illegal actions from the perspective of the constituent elements of a criminal law offense, the manner and factors that determined their commission and the relationships created between the active and passive subject during the pandemic period in Romania. Some conclusions, at the end of the paper, will aim at synthesizing all the information presented during it, analyzing the contribution of the state of emergency to reducing crime for certain facts and increasing it for others.

KEYWORDS: pandemic, criminal law, psychology, criminal act, victims, Criminal Cod, The Romanian Constitution, constituent elements, social values

The criminal phenomenon related to the pandemic period

In order for a person to be accused of having committed a crime, it is first necessary that the deed he committed be regulated by Romanian criminal law, but this is not enough, the existence of guilt and the un-justification of such conduct are and these elements necessary for the perpetrator to become an active subject of Criminal Law. However, perhaps the most important characteristic of an incriminated action is the imputability of the deed of the perpetrator (Mitrache Ctin. and Mitrache C. 2019, 134).

The birth of the need to commit a criminal act has its essence in the psychological factors of the individual, namely in the totality of his social, economic and emotional experiences. In this way, the traumas of unhappy childhoods, stress, anxiety or depression can lead to the adoption of behaviors prohibited by law through actions that appear first in the cognitive interpretation of the perpetrator, then they manifest themselves externally, endangering social values which the state protects (Zlate 2000, 148).

Sometimes committing crimes comes from the innate need of man to satisfy his primary needs, food, reproduction, shelter and others, and in this regard, the wrongful action no longer has a cognitive cause, but is limited to purely reasons instinctual, a situation in which it can be considered that the circumstance in which the action provided by the criminal law took place constitutes a mitigating circumstance for the individual who committed it (Neagu 2020, 475).

However, the individual who engages in illegal conduct from a legal point of view, infringing on the social values that the state protects and does so knowingly, even using some means to facilitate the achievement of the desired result, such as the use of minors whom the law does not criminalize the choice of night as a moment of action to create vulnerability, the choice of the victim for her inferior qualities and others, commits deeds punishable by criminal law in aggravating circumstances (Stănilă 2020, 126).

Depending on how he wants to act, an individual unleashes at the mental level a whole intellectual process of analyzing the constituent elements of the crime scene. From the choice of

the victim, how to approach it, the tools used, environmental and temporary factors, clothing and to the elimination of any clues that could draw attention to him, the absence of any such element could lead to the conclusion of the perpetrator's part of the futility of the illegal action (Butoi 2019, 96).

In Romania, the pandemic period was characterized by the imposition of a series of restrictions on social relations and individual activity of citizens, such as social distancing, the obligation to wear a medical mask, the obligation to wear protective gloves, the need to disinfect hands and much more, discouraged the commission of actions that could only be carried out through direct contact of the offender with the victim.

Another restriction that led to the reduction of the criminal phenomenon was that of limiting social activity during the night, this period being the most beneficial for committing criminal acts, because it offers the perpetrator the opportunity to better hide his identity and vulnerability to the victim to defend themselves, the visual field of people narrowing their area of coverage (Duțu 2013, 65).

Last but not least, the imposition of restrictions on the movement of customers in large grocery stores by forming directions for the flow of shoppers to be respected by all citizens who frequent such food centers, avoiding congestion, has led to diminishing the commission of illegal acts that required precisely this type of social agglomeration in order to be satisfied with the production of the desired result (Butoi T., Butoi I., Butoi A. and Put C. 2019, 211).

Analysis of some crimes whose number of cases was diminished during the pandemic period

The social values that are incriminated by the criminal law are those fundamental social relations guaranteed and protected by the Romanian state such as the right to life, free movement, physical and mental integrity, freedom of action and expression, the right to property and others. Whenever a person legally confines these guarantees by force or manipulation, the criminal law is called to restore the natural order (Ionescu 2012, 46).

Thus, during the pandemic period, namely within two months of the state of emergency in Romania, certain actions incriminated by the criminal law were discouraged from occurring, because the deviant conduct was limited or, for some crimes, was completely absent (Hotca 2020, 214).

The criminal phenomenon, during the state of emergency, experienced a significant decrease, especially in the cases of criminal acts committed through physical contact between the active and passive subject of the crime. Such behaviors that have undergone changes in the framework are theft, rape, fraud, abuse of trust, those that took place on public roads, robbery and much more (Cioclei 2020, 164).

Theft is the act regulated by the criminal law which consists in taking possession of a person's property and improperly appropriating it, through maneuvers or means of distraction, aggression or complex operational tactics that cause the victim to give up that property in favor of the perpetrator (Ristea 2020, 483).

In the case of this crime, the setting is that of social agglomeration, whether it refers to closed spaces such as large chain stores, public transport, event halls or other such premises, or to those opened during public manifestations, protests or cultural actions (Boroi 2019, 628).

Ensuring a single flow of customers entering shopping malls by establishing their movement in well-defined and highlighted directions with special markings, banning public events or community actions and reducing the number of users of public transport, made the crime of theft to be much more difficult to achieve, which is why, in the case of this deed, there was a significant decrease in the number of cases in Romania (Nour 2020a and Nour 2020b, 112).

Another act provided by the criminal law is rape which is materialized by having sexual relations with certain persons of the opposite sex or even with persons of the same sex, but without their prior consent (Gheorghe and Ivan 2019, 235).

In order for an individual to commit such an act, it is necessary to activate an intellectual process. At the mental level, the rapist chooses his victims based on their physical features, characteristics that induce sexual pleasure, carnal lust and the obsession to perform the act itself (Leş 2018, 63).

The organization and conduct of illegal car races on public roads is another criminal act whose number of cases has decreased considerably during the pandemic.

This is explained by the fact that, most of the time, this illegal conduct adopted by the participants in such events is manifested during the night, when the road traffic is lower and the existence of sufficiently large spaces for deployment is more easy to identify (Rusu I., Rusu E. and Bîrzu B. 2020, 225).

With the restrictions on traffic on public roads during the hours when this criminal act could be committed with minimal risk, the participants in these events have been considerably reduced, contributing to the increase of police forces aimed at monitoring compliance with this measures (Nicolescu 2018, 99).

Last but not least, the criminal acts related to the field of administrative litigation also experienced a decrease of the criminal factor on the background of the transfer of activities carried out by civil servants from the physical environment to the IT environment (Mața 2018, 141).

Thus, certain documents issued by public administration institutions, which could normally be falsified, distorted or could be issued for illicit purposes or certain public tenders that could be awarded, unofficially, prior to the legal procedure or in order to favor certain legal entities carrying out trade or execution of works could no longer be carried out due to the ease with which both the accuracy and originality of documents and the fair observance of award procedures can be tracked online through the means of registration and supervision informatics (Chiuariu 2020, 245).

However, although the criminal phenomenon decreased considerably during the pandemic in certain areas of activity that require either physical contact between the perpetrator and the injured person, or the possibility of illegal events, or alteration of official documents, the degree of crime at the state level remained constant (Sergiu and Șerban 2020, 615).

The explanation for this comes from the fact that, during this period, amid the imposition of safety restrictions, many citizens found themselves in a situation of losing their job or being insufficiently paid for the possibility of achieving adequate living conditions, the need to satisfy certain primary needs by pushing them to commit deeds provided and incriminated by the criminal law (Pașca, Ciopec and Roibu 2013, 121).

On the other hand, also during pandemic it has increased the number of crimes especially the crime of thwarting disease control (Hegheș 2020a, 90-98), the offense of failure to declare information (Hegheș 2020b, 114-121) and the crime of false statements (Hegheș 2020c, 143-148). Also, the transition to the online environment of many of the activities undertaken by citizens has facilitated the commission of computer crimes, especially in cases of criminal acts committed for economic purposes (Ioniță 2018, 230).

Increasing the number of cybercrimes during the pandemic

The imposition of restrictions on the free movement of citizens, the decrease of economic and social activity, physical contact and the normal way of life made it possible to direct a significant proportion of citizens to the computer environment (Acsinte 2012, 61).

The cybercrime is that deed provided by the criminal law that was committed with the obvious intention to cause material damage in order to obtain an unfair result using computer means (Coman 2020, 202).

During the pandemic, the cybercrime phenomenon saw a significant increase in the number of cases, especially in terms of economic acts committed through specialized applications in electronic bank transfers and characterized by the extraction of personal or confidential data used by credit card holders for authorizing payments in various accounts of companies (Udroiu M., Trancă A. and Trancă C. 2014, 101).

In order to carry out this type of crime, it is necessary for the perpetrator to be an intellectual perpetrator, endowed with special abilities to avoid all ways of identifying his person, which means that not everyone can successfully commit such a criminal act, acquiring these qualities. requiring a long period of deepening and analysis of IT structures (Udroiu M. and Trancă A. and Trancă C. 2014, 112).

Therefore, the introduction of restrictions during the state of emergency did not lead to an increase in the number of criminals in the field of cybercrime, but only to an increase in the opportunity to carry out such illegal actions for those already existing.

Conclusion

The criminal phenomenon arises either from the instinctual nature of man to ensure the satisfaction of some primary needs that he fails to achieve otherwise, or from purely psychological factors that are the cause of social experiences, economic or emotional deficiencies.

In any way he chooses an active subject of a criminal act to commit the deed, it activates a whole intellectual process to achieve the proposed result that will take into account the environment, the characteristics of the chosen victim, the time of action, the means available and much more.

During the pandemic, the number of crimes was reduced, for the realization of which, one of the necessary and obligatory elements, is the physical contact between the perpetrator and the injured party.

Thus, offenses such as theft, rape, illegal car racing, robbery, breach of trust, fraud and other such acts have been discouraged from being enforced in the context of changing the scope of the action, in the sense that limited physical contact, free movement, especially during the night, the existence of social agglomeration, elements necessary for the actions to be successfully completed.

A decrease in the degree of crime was also felt in the field of public administration, when the activity of officials was transferred from the physical to the online environment, which is explained by the ease with which certain documents, certain procedures or assignments of public executions can be tracked deployment.

On the other hand, also during the pandemic period, the degree of criminal acts of an IT nature, especially of an economic nature, increased, not because of the significant increase in the number of perpetrators, because for such an action extensive knowledge is required this area that accumulates over a long period of time, but due to the increased opportunity and the number of possible victims.

This new type of criminal phenomenon, in contemporary society, tends to reach colossal proportions, being easily adaptable from an operational point of view, requiring a low level of material resources and having an easy character in terms of operation.

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A Portrait of the Orient through the Occidental Gaze: Resuming the Journey of ‘Dark India’ with Gregory David Roberts

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ABSTRACT: *Shantaram* is a book about a man who breaks out of a gaol in Australia and ends up in Bambay (now Mumbai). Eventually, he becomes engaged with Mumbai underworld. He falls in love with Karla, a beautiful and mysterious woman. The novel uses lots of Marathi and Hindi words that add up to the local essence of the novel. The novel is set up in Bambay in the 80s. It becomes all the more interesting as the narrator gets involved into a gun-running mission in Afghanistan and gives a vivid picture of the whole trade. Significantly, the novel has Bombay as a very important character; rather Bombay becomes an integral part of the novel. It has beautifully projected India and her people seen through the eyes of an Australian. Hence, this paper will try to bring out what are the facts that have gained more attention from the narrator and which aspects have been ignored. And while doing so, this paper would further try to analyze the factors behind such inclusions and exclusions and the politics, if any, involved in it.

KEYWORDS: Orient, Occidental gaze, Shantaram, Bombay, Slave market

Edward Said (1978, 473) reflected within his famous book *Orientalism*, “Every writer on the Orient (and this is true even of Homer) assumes some Oriental precedent, some previous knowledge of the Orient, to which he refers and on which he relies”. But this observation of Said cannot be said to be perfectly fitting in while we discuss upon Roberts’ novel *Shantaram*. It is quite evident that any discussion on books about the soul of India, especially viewed through a foreign gaze, must include *Shantaram*. It’s a huge novel full of thrilling, philosophical, romantic and heartbreakingly tragic experiences. The Australian author of the novel, Gregory David Roberts, was a convicted bank robber as well as a drug addict in Prentidge Prison from where he escaped in 1980 and came to India to hide himself. The novel, as is claimed by the author, is part-autobiography. The protagonist here reaches Bombay airport with a false passport in the name of Lindsay Ford and is later affectionately called Lin by his friends. Prabaker, his guide cum friend, led him to some of the most unusual places that are hardly visited by the tourists, especially. They call it their ‘dark tour of the city’ under which they visited the hidden society of beggars and gangsters, the secret market where slaves are traded in, the centre for organ trafficking, the black market of medicines run by the lepers and so on. Prabaker takes him to his native village too so that his client may experience the real essence of village India. All these experiences, along with the other ones such as his association with the underworld and getting involved in criminal wars, fight with the mujaheddin guerrillas, and link with Bollywood etc have been beautifully described by the narrator within the novel. In this paper we will try to carefully revisit those ‘dark’ places with the narrator and find out the exclusiveness of such experiences.

The protagonist of the novel lands in Bombay with a false passport that carried the name Lindsay Ford. In his original plan, Bombay was thought of as just a stopover towards his journey to Germany. But he made his mind to stay in the city. Lindsay begins his story ‘with a woman, and a city, and a little bit of luck’ (3) from the day when he put his first step in Bombay (presently Mumbai). The very first things that he noticed about Bombay, even before stepping out of the airport, are the queer smell of a new city, and of course, the heat. These are the quite usual reactions of a foreigner coming to the city for the first time. But the way he describes the smell of the air of a new city is very interesting, “...it’s the sweet, sweating smell of hope;

which is the opposite of hate; and it's the sour, stifled smell of greed, which is the opposite of love" (4). In this way he could sense the real nature of the soul of the city of Bombay even before stepping into it. Throughout the novel we find him just illustrating this realization about the soul of the city. And at once he felt at home in a city which he has not even had a glance of earlier/before. This expression about the city, unique in itself, binds the keynote of the nature of the relation he is going to have with the city.

The first sight of Bombay he encounters with after leaving the airport on his way to the city by bus is that of Bombay slum. The complacency he was having at the view of the modern highway and the well-planned landscape around it just after leaving the airport was shattered the moment the bus entered into the slum area. I would like to quote from the text his first impression at the sight: "Like brown and black dunes, the acres of slums rolled away from the roadside and met the horizon with dirty-haze mirages. The miserable shelters were patched together from rags, scraps of plastic and paper, reed mats, and bamboo sticks. They slumped together, attached one to another, and with narrow lanes winding between them. Nothing in the enormous sprawl of it rose much above the height of a man" (7). The stark contrast of the two pictures of the airport and of the slum is really shocking, and at the same time symbolic too. Whereas airport is the place harbouring the dreams of flights of people becoming successful, the slum is the coffin where all the dreams of its inmates are crushed and buried.

Awestruck, the narrator begins to watch closely the lives in the slum, as much as he could endeavour from the running bus. The woman brushing her hair, another woman bathing her children in the open, a man tending his goats tied with ropes, children playing everywhere, people carrying water with buckets, someone engaged in repairing in his hut—all these activities of livelihood with the amazing smile on their faces even under such wretched condition soon arrests his attention. In the meantime the bus stops at a traffic signal and our narrator comes across a person who was a foreigner, wearing something like a lungi only, with a bare upper part. What is notable in him is the sense of at-home feeling reflected in his gestures, "There was a definitive, bovine placidity in his face and posture" (8). From the way people around greeted him, it seemed that he is quite familiar within the locality. The encounter with this man changed the narrator's attitude towards the slum. He envied the complacency reflected upon that man's face. He begins to imagine himself at his place and suddenly views changed. He could now find the labour and enthusiasm exercised by the people in the slum. The cleanliness of the interior of the huts was now visible. And most interestingly, now he could uphold the beauty within the people living there. But this fascination was perhaps that of a tourist at the sight of something he has never seen before. Possibly this was not a deep-rooted realization, otherwise he wouldn't have felt terrified at the thought of living in a slum when circumstances led him to.

It happens so that a few months after the narrator reaches Bombay, he loses all his money to a gang of hooligans in the streets. As a result it becomes very difficult for him to meet the expenses of food and boarding in a hotel. Even that he tried to manage somehow by acting as the broker for exchanging foreign currencies. But in the meantime his visa expired. He couldn't take the risk of applying for extension because the passport he was carrying was not genuine. So there was every chance that while checking the passport for the application of visa, the authority might find that out. But no hotel would allow him to stay without valid visa. So the only option left for him was to accept Prabaker's offer of staying in the slum, as nobody would bother about the issue there. But see how he reacts to the thought of living in the slum: "...and yet horrified at the thought of life in the slum. I remembered my one visit to Prabaker's slum only too well. The smell of the open latrines, the heart-breaking poverty, the c ramp and mill of people—it was a kind of hell, in my memory, a new metaphor that stood for the worst, or almost the worst, that could happen" (148). He goes on brooding, "the slum was filthy and crowded beyond imagination" (149).

When he was entering the slum for the first time as a resident, the first thing that captures his attention is the dirty sanitary system and the overpowering smell of the place inciting vomits. The way he reacts to these things invites a smile tinged with cynicism in Prabaker, "See how the

people live.” (158). But gradually as he proceeds into the interiors of it, the place of suffocating odour is taken by smell of spices, cooking and incense. To me, the reference to the changing smell is symbolic. It presents the actuality of the life within slums. However hostile and dreadful it may seem from outside, it is something different within. The spirit of the people living there may not be intelligible from the peripheries. But once you enter into it, you will instantly feel the warmth and liveliness with which it welcomes you. His observation while making his way into the slum is very significant: “They were all staring at me with such gravity, such a fixity of frowning intensity, that I felt sure they must bear me enormous ill-will. I was wrong, of course. I couldn’t know then, on my first day, that the people were simply staring at my fear. They were trying to understand what demons haunted my mind, causing me to dread so terribly the place they know to be a sanctuary from fates far worse than slum life” (158). Thus we see our protagonist getting involved into the fire rescue operation on the very first day of his arrival into the slum. Besides taking active part into the attempt to fight against the fire to stop its spreading, we also find him taking initiative to provide the first-aid to the injured voluntarily with his limited stock of medicines and bandages. So the day that started with a hostile feeling on the part of the narrator ended with quite a different note. At the end of the day we see him feeling some strange connection, ‘some meaning, some purpose’ (167) which he was badly in need of in his present situation that led him to the right place, to the right job, at exactly the right time.

The narrator draws the attention of the readers to a very interesting way of life that the workers of under-construction skyscrapers live. We see Roberts and Karla being invited to a celebration on the twenty-third floor of a thirty-five storied under-construction building. There they came across the hardship of living that the workers undergo there. When they work on the top floors of such buildings, reaching up there daily becomes the largest issue. The freight elevators are not available to them, as they are meant for machines, materials and staff. And there is no question about the difficulty in climbing such a height through stairs. So while working at the top floors, a good number of workers stay up there for a long period. They eat there, work there and sleep there. And for that purpose, they have their kitchens, bed rolls, pet animals, arrangements for rations—everything they need is sent to them up there. Prabaker explains, “It’s sort of like a base camp that mountaineers use when they climb Everest” (252). It is like a Village in the sky.

Prabaker invites Roberts to visit his native village, after the dark tours of the city he led him to. May be, it was offered as a cure/relief from the shock he had from those experiences. If that was the purpose, then it was more than successful. Hearing about his plan to visit Prabaker’s village Karla inspires him, “You have to go. If you want to stay here, in Bombay, as you say, then you should spend some time in the village. The village is the key” (95). And he sets out with Prabaker on his journey to the soul of India. The name of the village is Sunder—meaning beautiful. A vivid and lively picture of their journey, full of different kinds of experiences that go on exploring India in bits is portrayed by the narrator. And after a whole day’s exhausting journey through the tremendously overcrowded trains of buses of our country, they reached their destination. Prabaker’s father was waiting for them with the bullock-cart at the bus-stop. Roberts is overwhelmed by the kind of warm reception he gets at the village from hundreds of people assembled at Prabaker’s house, only to welcome him. Coming from the west, this was something that he couldn’t even imagine. During his long stay there he had a great opportunity to observe quite closely the people of the Village India along with their ways of life, behavior, culture—everything. Whatever experiences he could gather from this trip, he paints them beautifully within the novel. He gives an account of the cultural shock he experienced while he was bathing for the first time in the village in the open air along with a detailed description of the kind of almost open washrooms the village people usually have within their houses, the daily ordeals of men and women there and so on.

On some days he joined the men in the fields while tending to the different kinds of crops. He kept a minute record of the daily activities there—their shifts of work in the fields, the lunch and siesta break, the nature of their usual meal and the practice of taking it into groups,

resuming work after dozing near about one hour, and finally coming home together laughing and joking all the way. Women did all the cooking, cleaning, washing, regular house-maintenance—everything needed for living except working in the fields. Here I would like to draw the attention of the readers to the observation of the narrator regarding the comparative average duty hours of men and women on the village. He says, “On average, the village women worked a four-hour day. They spent much of their free time playing with the young children. The village men worked six hours per day on an average four day per week” (131). I wonder how all the day’s cooking, cleaning, and other jobs for such large families (usually families are large in villages) could be done only within four hours? The elaborate breakfast that the narrator himself has described requires at least one hour, if not more, to prepare. Besides, looking after the children is not at par with as just playing with the child—it is as hard a duty as working in the fields. Then how could he count that within their pass time?

His first night at the village had a profound effect upon him. The serenity and the complacency of the night suddenly gave him a jerk and he began to recapitulate his past deeds. Strangely, that was the moment when for the first time he realized what wrong he has done to both, his own life and family and that to others. For the first time ever after committing the crime he repented the loves (of his daughter, his parents and his brother) he betrayed and lost for ever. The time when he robbed, he was addicted to heroin. So he was not in his senses. Later, during the period of his imprisonment for three years, when he had got ample time to brood over his past and future, even then he didn’t bother either about his own family or about the families of the people he robbed at the point of a gun. That time he was ‘too busy being punished, and feeling punished’ (123). After his escape from the prison, it was a different story all together. Then he was absorbed in the thoughts of flight, running and hiding as a wanted man with a price on his head. It took him so long a time to feel the damage he had done to his own life. And for that feeling to come up and overpower his mind, he had to wait till that magical night at a small village in Maharashtra, the Sunder village. He reflects, “It was only there, in the village in India, on that first night, adrift on the raft of murmuring voices and my eyes filled with stars; only then, when another man’s father reached out to comfort me, and placed a poor farmer’s rough, calloused hand on my shoulders, only there and then did I see and feel the torment of what I’d done, and what I’d become—the pain and the fear and the waste; the stupid, unforgivable waste of it all” (123-4). This is India. This is the real magical power of mystic India that leads one towards the most meaningful task upon earth—the realization of the self.

During his three months’ stay at the village, the person who influenced him the most is Prabaker’s mother, Rukhmabai Kharre. She was forty years old. The novel provides a vivid picture of her majestic presence. The narrator observes, “She was a full head and shoulder taller than her husband, and that difference in height combined with her ample, curvaceous figure, gave the false impression that she was something of an Amazon, whenever the couple stood together. Her black hair, gleaming with coconut oil, had never been cut, and the majestic rope of it reached to her knees. Her skin was tan brown. Her eyes the colour of amber, set in rose gold. The whites of her eyes were pink, always... a wide gap between her front teeth gave an impish mischief to her smile, while the superb hook of her beaked nose endowed her with serious expressions with an imposing authority” (125). The most attractive sides of her are ready wit and the deep sympathy she felt for all. Richards goes on describing her, “she was a woman to admire and to desire, but the message in her eye and her bearing was unmistakable: offend or disesteem her at your peril” (125). It was because of her skill and management that the wealth of the family increased from moderate to the largest in the village. At the time of Roberts’ visit, they were the most affluent family with large quantity of lands to cultivate, buffaloes, oxen, goats and hens along with quite handsome amount of money in the bank account to marry off/away the daughters. But these are nothing. The real power of the lady was revealed when she inspired and led the people of the village to fight against the fearsome dacoits who settled in the area and tortured the people with their demands of tribute. Rukhmabai became fierce when these dacoits raped a woman and shot dead a man in the neighbouring village that resisted their

demands. At his funeral, she addressed the people assembled there and inspired them with her tongue to fight against these oppressors. And finally the villagers could win the unequal battle with the help of their indomitable courage. A little bit of help also came from Prabaker who sent a group of six men from the city slum. From thence on, Rukhmabai holds a special position mixed with affection, pride and admiration amongst the villagers.

After a few days of his arrival in the city of Bombay, finally Prabaker was ready, or rather he thought Lindsay to be ready to undergo the dark tour of the city, or the ‘real deal’, as he calls it. Usually he doesn’t take the tourists to such places as most of them don’t like it. Or sometimes they are too eager to visit such places that their over-interest warns him not to lead them to these places. According to him, “you must have a good heads, to like these things, and you must be having good hearts, to not like them too much” (65). Now he is sure that Lin is a perfect combination of good hearts to appreciate such things. So their journey begins. They met an accident on the way. The cab they were riding struck someone on the street. Though the injury they suffered from it was negligible, the lesson Lin learnt was profound. From the aftereffects of the accident and the reaction of the mob he realized that if he wanted to stay in Bomay, he has to change himself. As he perceives, “The city wouldn’t let me be a watcher, aloof and apart. If I wanted to stay, I had to expect that she would drag me into the river of her rapture and her rage” (73). Then he knew he must step off the pavement and join the crowd for sure, sooner or later.

They continued their journey, even after the terrible experience of the accident as both of them were keen on their visit to the slave market. It was astonishing that such things still existed, even on the face of twentieth century. The way leading to the market is also vary strange. After a certain turn on the street, all the signs of civilization began to vanish, as if to prepare the visitor as well as the backdrop for the dark tour. The buildings appeared to be ancient and dilapidated. Interesting changes in the appearances of the people living there were visible, especially with their attires. Gradually as they proceeded, all the signs of western-style garments disappeared, except among the children. Colourful traditional dresses like kaftans, angrakhas, sarees along with a great variety of headgears and extravagant jewelleries were in vogue. Lin feels, “it was as if all of these hundreds of people were costumed for home, for themselves, not for the public promanades. It was as if they were safe, there, to clothe themselves in tradition and display” (74).

And finally they reach the core of the sight after bribing the watchman. It was a kind of courtyard. Some wooden benches were scattered. A number of groups of two or three people, among whom some were Arabs were engaged in conversation. Children were sitting under the tattered canopy. It was, as Prabaker describes, the ‘people-market’ and the children were the commodity put for sale. They were collected by scouts from the areas affected by cyclone, drought, epidemic, riots and such other calamities in which possibly they lost their parents and became the prey of the scouts. The boys brought there were destined to work as camel jockeys in Saudi Arabia, Kuwait and other Gulf States. Some would be maimed, and worse, some would be dead while running camels for providing entertainment to the rich sheikhs. The girls would work as maids in the household. Some of them would be sold in the sex-market.

Lin felt intense agony and resentment at what he experienced there. He badly wanted to protest, but couldn’t as he himself was an outlaw in the country. Moreover, he could feel the quintessential truth behind the whole business: “If I came back with a gun and stopped the slave market there, in that crooked concrete maze, it would start up again somewhere else. Stranger that I was, I knew that much. And maybe, the new slave market in a different place, would be worse” (81). And the more pathetic side of the story is that, as Prabaker puts it, these children were luckier than their fellow ones to avoid death by coming to this market. Their parents keenly requested/ begged of the scouts to take their children so that they won’t at least die. This is the stark reality which is utterly contradictory to the mere perception. And Prabaker, playing the Virgil, explains this to Lin.

The real tune of the place is finely set by the episode of the pakora-seller on the street, even before the narrator enters the sight. The spectacle of that man amidst the eerie blue flame of the kerosene stove enhanced the play of emotions that that haunted him. It was a combination of angst and blunt, indifferent anger for the tedious, ill-paid work that was reflected through his eyes. For a moment Lin could feel the intensity of the anger that compelled him to feel sorry as a human being for the unfortunate condition he has been thrust into. The same was the feeling with the slave market too.

The next place they visit under the plan is to an old house near St. George Hospital. This too was a kind of hospital; at least it claimed to be one. The house was full of sick and dying people. The difference is, what they were provided there was just a small floor-space where they are to lie and wait for death to come, without any treatment or medicine. In spite of that the owner of the place is highly respected, almost as a saint, just for providing these dying persons the space to die. And imagine what he is taking in exchange! That is the most horrible part of the story. He always keeps an watchful for on these people in search of the useful organs left within their bodies and tags the accordingly. Actually the house is a huge illegal organ-bank where living people with active organs are stocked. And these people are willingly donating their organs at the cost of having a ‘quiet, clean place to die’ (96). And surprisingly, these people feel a kind of gratitude towards the owner of this business, whereas they should have hated him the most! Just imagine the wretched condition these people were placed in that even such hell appears to them as heaven. To act as live-stock for organ trafficking is actually far better than dying helplessly upon the street out of hunger or out of cold. Unfortunately this is the real picture of the miserable condition that a great number of people undergo in this country. And here lies the greatness of the novel that it has very successfully pointed out such dark sides of the Indian society.

The next interesting place Lin visits is the mobile slum of the lepers. These are among those places which I think very few writers have a first-hand experience of. And almost none of the foreigners had ever any access to such places who could have recorded it so poignantly. This place doesn’t come as a part of their dark tour. He was taken there by Abdullah as the black market for the supply of medicines he needed to treat the slum dwellers. The slum at the time of their visit was at the outskirts of the city, at the railway sidings. These are, as I have already mentioned, the mobile slums. Being the run outs from different government and non-government colonies for lepers (as they wanted to make themselves free from the suffocating rules and regulations there), they were given shelters nowhere. The famous ‘elastic tolerance’ of the slum people was not that much tolerant as to welcome these lepers. Wherever they settled, they were not allowed for long by local leaders. So they were forced to form themselves into a group living in slums that ‘settled, within an hour, in any open space they could find, and made a traceless departure in even less time’ (208). Their huts looked like pup tents in comparison to which even the slum huts appear to be solid, comfortable structures. The materials they used for making these are scraps of cardboard and plastic held together with thin string. But this is not enough. The most shocking experience one has is not their poor and wretched lifestyle. It is the spectacle of the disfigured appearances of the people living there. It was hard, as Lin finds it, not to look and stare at them. Some of them were without noses. Most of them had no fingers. The feet of some were bleeding. Even worst, the disease in some of them reached the ultimate stage with affecting the lips and ears.

A very significant aspect of Lin’s description of the painful appearance of the people there is that the absence of beauty, or the disfigurement seemed to be more ugly in women than in men. About men’s disfigurement, as he finds, “many of the men had a defiant and even a jaunty air about them—a kind of pugnacious ugliness that was fascinating in itself” (209). Now the question is how the same kind of disfigurement/imperfection, same kind of lack of beauty invites different attitudes within men and women? If some kind of deformities compels women to be shy and cowed, how can the same be ‘fascinating’, causing ‘jaunty air’ within men? How

can women look ‘more ugly’ when both lack the same organs? Isn’t here the narrator betraying his gender-biased attitude?

Coming to the profession of these people, they live on black-marketing, chiefly in medicines. They have mastered the art of stealing medicines since the time of the British Raj. Even then these people were at the bottom of the priority list of privileges. As a result they often missed the limited supply of medicines, bandages and medical treatments. So they learnt to manage resources for themselves by stealing them. In this way they became a bit over-skilled to gather surpluses. So they built their own black-market of medicines to sell their surplus collection. But who are their customers? As Abdullah informs, in India a large number of people died through formation of septic formed from wounds and the spreading of infection during the gang wars, violent protests, brigandage and the like. They can’t go to the registered chemists as the police always have an eye on them. So they collect their medicines from these black markets where lepers ask no question. The chief customers of this secret market are the terrorists, infiltrators, or the ambitious outlaws. Abdullah concludes, “These people are dying...and they still life for themselves, and then they sell life to others who are dying” (213). In this way Abdullah tries to add a tinge of humanity to the job of illegal dealing in medicines by these outskirt people. He tries to highlight the positive aspect to the illegitimate business of black-marketing.

There is no surprise that Abdullah would try to add some nobility to the illegal selling of medicines as being a part of the Bombay underworld, he often needs their help either for himself or for his fellow fighters. But how could the narrator miss to identify the danger hidden within this so-called social service? By providing life to some of the outlaws, are they not endangering the lives of some innocent people, the future victims of these criminals? As far as stealing medicines for themselves is concerned, that can be accepted, for they too are patients suffering severely and are badly in need of medicines for their survival. And they themselves are not potential threats to other people. But what about the terrorists, the gangsters and other dangerous outlaws whom they are helping to escape the grip of law by providing medicines secretly? Are they not endangering the lives of the innocent people in this way?

In the village he was given a new name—a Maharashtra one, Shantaram Kishan Kharre. In this way on one hand he was accepted as a member of Prabaker’s family in spite of coming from some other country. On the other hand, the first name that was chosen for him in accordance to their perseverance of his nature meant ‘man of peace’. But this mistaken identity had a tremendous effect upon him. Just at the time the villagers were busy in renaming him, Lin was absorbed in the epiphany of the existence of the river within oneself. ‘It’s the river of the heart, and the heart’s desire’ (136)—the bona fide, essential truth. And after being wrongly named as ‘man of peace’, he suddenly realized that it was the target, the floodstick, nailed by them into the river of his life. He comes to perceive the design of his life: “I was born in those moments, as a stood near the floodstick with my face lifted to the chrismal rain. Shantaram. The better man that slowly, and much too late, I began to be” (137). Finally, this was the bright effect that the ‘dark tour’ had upon the protagonist.

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Some Considerations Regarding Search

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ABSTRACT: In this paper, aspects were analyzed regarding the tactical research activity of the home or on the body of a person, known as search. The purpose is to present, from a procedural point of view, how to carry out this activity, the importance of carrying it out, the types of search regulated by the Romanian Criminal Procedure Code, as well as aspects regarding the psychology of the search.

KEYWORDS: prosecution, home search, body search, document, legal psychology

Introduction

The search has an important role in solving criminal cases, being a complex activity, carried out by criminal prosecution bodies. The search is important because in a criminal case, without obtaining evidence, the investigation would remain without purpose.

Denying a person regarding the delivery of objects or documents makes the legislator offer the possibility to the criminal investigation body to resort to conducting a search.

The provisions of article 157 of the Criminal Procedure Code indicate that in case of suspicion of committing a crime by a person related to the possession of objects or documents, in this case, a search is necessary which may lead to the arrest of the suspect or defendant.

Although it seems that the criminal investigation bodies violate the inviolability of the domicile, of the person, or the secrecy of the correspondence, in order to find out the truth, they can perform this act.

The success of a search depends on how it is prepared. Thus, the organization of such activity requires a lot of patience, careful organization, and a thorough examination, with rapid adaptation to concrete situations.

Of particular importance is the psychology of the criminal investigation body that conducts the search. He must have a sufficiently developed sense of observation, so as to lead to the finding of the truth and the discovery of objects and writings.

In fact, the behavior of the searched person will be monitored at all times, finding an accentuation of his emotional tension, at the time of the search.

Search is a tactical investigation of a person's home or body, which may be ordered by the prosecuting authority or the court, when the person asked to surrender in the interest of establishing the truth, any object or document denies their existence or possession (Buzatu 2013, 98).

The search may have as its purpose the detention of persons who evade criminal prosecution, trial or the execution of the sentence. The search can locate the kidnapped or missing people, alive or dead (Ionescu 2007, 191).

Detailing the definition, it can be seen that what is related to the essence of the search is the action or complex of actions that can be subsumed under the notion of "search" (Olteanu and Ruiu 2009, 98).

From a procedural point of view, the search is an activity characterized by procedural relations that arise between the parties to the criminal proceedings, which derive from the right to compensation, to repair the damage caused to the injured party by crime and the need to administer criminal probation forced by objects, values, documents that may be on some persons or in their homes, persons who may have the quality of perpetrators, accomplices, concealers or witnesses, even if or not they are acquirers in good faith.

The search must be an activity whose purpose must be established in advance (Ordukaya 2017, 225).

The search functions are:

- complete and without delay the collection of evidence;
- discovering both the means of proof that are the object of the search, as well as new factual elements that can serve to find out the truth or even to extend the research in question;
- the preservation of the means of proof, both those discovered during the activity and those that the persons in question refused to hand over voluntarily to the judicial bodies and it was necessary to proceed to obtain them by force (Grofu 2019, 93).

The importance and purpose of the search

The literature shows the importance of the search, determined by the fact that it is decisive in solving a criminal case, by obtaining evidence absolutely necessary to establish the facts or circumstances in which a crime was committed, as well as the identification of the perpetrator.

The particular role of the search also results from the fact that the criminal investigation bodies have the possibility to carry out this act even in the conditions in which, apparently, it would mean a breach of the inviolability of the domicile, person or secrecy of correspondence, as in the case of flagrant crimes the provisions of the law (Ciobanu and Stancu 2017, 218-219).

Depending on the particularities of each criminal case, the search may aim at:

- The discovery and seizure of objects, goods, values, documents, which contain or bear the traces of the crime, of those who used or were intended to serve in the commission of the crime, as well as of those who are the product of the illicit activity;
- The discovery of the persons who evade the criminal investigation, trial or execution of the sentence and of the missing persons, corpses or fragments of corpses;
- The discovery of goods/values to be made unavailable in order to recover the damage caused by the crime (Buzatu 2013, 98-99).

The seizure of objects and documents is of equal importance for the settlement of a criminal case. From a forensic tactical point of view, it has a less complex character (Stancu 2015, 495).

Specifying the purpose of the search in relation to the investigated case presupposes the existence of a correct representation of what is sought and can be discovered in each case (Văduva 2004, 95).

The purpose of the search must also be specified in the search warrant issued by the judge of rights and freedoms, at the request of the prosecutor (Ordukaya 2017, 224).

Classification of searches

The search can be *home*, *body*, *computer* or a *vehicle* (Art.156 of Criminal Procedure Code, 85). *Home search* is the evidentiary procedure ordered by the criminal investigation body, the judge of rights and freedoms or the court, in order to find and pick up objects or documents not voluntarily handed over or whose existence or possession is hidden by the person who was asked to hand over the object or the respective document (Paraschiv 2019, 221).

The home search targets both the home and the goods in the home. The domicile represents a dwelling or any space delimited in any way that belongs to or is used by a natural or legal person. Part of this concept is the place of practice of the profession. The bodies of the European Convention on Human Rights have included in the notion of domicile certain spaces, such as: a hotel room occupied by a person; the yard or the garden, if they are used by the searched person, the cell of a penitentiary etc. (Volonciu and Barbu 2007, 202).

The body search consists of searching for evidence and material means of evidence on a person's body and must be divided conventionally, in the search of clothing and the search of the person's body.

Search activities should be extended to the luggage carried or accompanying the searched person as well as to the perimeter around it, in order to discover some objects thrown before or during the search (Olteanu and Ruiu 2019, 116).

Usually, the body search is carried out on the perpetrator on the occasion of ascertaining the flagrant crime, the person caught after his pursuit for detention or arrest, the person under house search, the person to be arrested (Mircea 1999, 292).

Computer search involves researching a computer system or a part of it or a computer data storage medium in order to discover, identify and gather evidence necessary to solve the case.

According to the provisions of article 168 paragraph (1) of the Criminal Procedure Code, computer search is "the process of researching, discovering, identifying and gathering evidence stored in a computer system or computer information storage medium, carried out by various appropriate technical means and procedures, such as to ensure the integrity of the information contained therein" (Hegheş and Moise 2019, 79).

According to article 168 paragraph (2) of the Criminal Procedure Code, during the criminal investigation the computer search is ordered at the request of the prosecutor by the judge of rights and freedoms who decides by conclusion and immediately issues the search warrant if he admits the request (Stancu 2015, 517-518).

The search of a vehicle is assimilated to closed places, although it has natural features by their constructive nature. The search of a vehicle or other means of transport will be carried out by people who have knowledge in this field, sometimes requiring the support of specialists in car mechanics (Stancu 2015, 513).

In the literature, other classification criteria have been proposed:

- *By nature of the place where the search is carried out*: search in open places and search in closed places.

- *After the time of the search*: the search carried out during the day and the search carried out during the night.

- *By composition of the search team*: searches carried out only by the judiciary and searches involving specialists from different fields of activity.

- *By the number of persons carried out*: searches carried out on a single person and searches carried out simultaneously on several persons (Grofu 2019, 95-96).

Regardless of the types of search, it is done by applying the same tactical rules. It is necessary to establish from the beginning the actual tactical methods of performance, but also the necessary material means, the time within which to be met, the participants, from beginning to end, within the limits provided by law (Buzatu 2013, 99).

Aspects regarding the psychology of the search

The search is a real fight, in the psychological realm, between those who perform this activity and the searched persons, which is why it is necessary to know some issues of forensic psychology, especially the psychology of the searched and those who perform it. Thus, during the search, both the searched person and the person conducting the search study each other, seeking to intuit what the other person is thinking and preparing.

The person conducting the search will have to permanently penetrate the way of thinking of the searched person (Ordukaya 2017, 218).

Carrying out a search requires a series of psychophysiological qualities determined by the strength, mobility and dynamism of the nervous system, by the balance between the process of arousal and inhibition.

Those conducting the search should turn their attention to the capture of psycho-behavioral manifestations of those searched, such as body and hand tremors, changes in voice and speech, restless breathing, facial expression.

Members of the search team must avoid any conflict with the person searched.

They must not express their feelings of joy or dissatisfaction with the search results. It must also refrain from assessments related to her personal and family life (Buzatu 2013, 99-100).

Given the importance of the search to find out the truth, it is obvious the need for the judicial body to follow a conduct governed by general rules, common to all these procedural acts. So:

1. Careful examination and constant observation, in its psychological sense, of directing attention to a better, complete perception of both the behavior of the person searched and the particularities of the entire place where the search is made;
2. Maintaining the stability of attention which requires avoiding monotony;
3. Rapid adaptation to concrete situations encountered on the spot;
4. The search requires a lot of perseverance, calm and patience, such an activity being incompatible with superficiality, nervousness, haste or repulsion towards certain places or objects (Stancu 2015, 501-502);

The knowledge of the psychology of the searched allows the criminal investigation body to differentiate the reactions that appear in connection with the search activity from the reactions due to other causes, the very event of the search - affectogenic factor likely to explain feelings of anxiety, disorder, dissatisfaction or outrage.

The permanent study of the psychology of the searched, in many cases, led to the discovery of the wanted objects. Thus, in the case of a crime of robbery, on which occasion the victim was deprived of some jewelry, proceeding to search the home of the person suspected of committing the crime, it was found that he was quiet some of the time, but when the search team entered the kitchen, he became agitated (Ordukaya 2017, 218-220).

Some peculiarities regarding the performance of certain categories of body searches and home search

Forensic theory and practice have developed a series of general rules to be adapted to the specific situation and the type of search carried out.

Searching for the person. The typical case is the arrest in flagrante delicto or the execution of an arrest warrant.

a) *Body search (anatomical)* is performed only by a person of the same sex, possibly assisted by a doctor (Ionescu 2007, 192).

It is intended for searching for objects and documents on a person, which involves the external examination of a person's body, mouth, nose, ears, hair, object that a person has on him or under his control, at the time of the search (Stancu 2015, 514).

b) *Search of clothing.* Usually, the search is performed from top to bottom, ie from head to toe. Each item of clothing will be thoroughly examined (Ionescu 2007, 192).

This part of the search involves the partial verification of each piece of which it is formed, of the linen and the shoes, and if necessary they can be removed from the person's body. Undressing is necessary, both for the fact that it allows a thorough check of the clothing, and for the possibility of a separate search of the body (Stancu 2015, 515).

Knowing the place of the search. Exact knowledge of the place where the search is to be carried out, especially at home, is a rule that must be followed in all circumstances, especially in complex cases where the search can be carried out immediately.

It concerns the layout of the place, the construction or topographic characteristics, its destination, the people who live or have access to the search space (Ciobanu and Stancu 2017, 224-225).

Search of closed rooms and places. In the case of closed places, it is important to know the exact address (street, number, floor, apartment), construction features, layout and destination of rooms, outbuildings, any changes or arrangements made by tenants, location of doors, windows, entrances or exits, other than the usual ones, persons domiciled or temporarily living at the respective address, frequent visitors, neighbors, telephone number (Ciobanu and Stancu 2017, 225).

a) *The search of the building and the construction elements* involves the verification of the building as a whole, as well as of each room or outbuilding. The interior and exterior surfaces, established by measuring the interior and exterior length of the walls, their thickness and the angles they make between them, will be examined.

b) *The research of the bulwark or walls* begins with the measurement of their dimensions (length, width and height), in order to ascertain whether or not they are uniform or corresponding to the plan of the building.

c) *Research of other construction elements.* When checking the walls, the door or window sills, as well as the vents, the closets, frequently used as hiding places, are also examined.

d) *The search for furniture and objects inside the rooms* is a meticulous operation, which requires a lot of attention and patience on the part of the person who performs it, as a series of objects must be checked during the search.

The furniture, especially the wooden one, will be checked piece by piece, given the possibility of improvising as hiding places.

Paintings, icons, various interior decorations fixed to the wall, allow hiding behind them documents, currency other objects and must be checked very carefully.

Books, albums will be searched piece by piece, hiding in them not only money or documents, but also weapons, jewelry.

Preserved food vessels and jars are often used to hide gold coins and precious stones (Stancu 2015, 511-512).

Searching in public institutions is much more difficult than a home search itself. The difficulties are determined not so much by the exact delimitation of what is generically called a public unit (including private), but by the precise determination of the places where a person has access, assuming that the person carries out his activity in a place that does not belong.

Searching for a vehicle. Frequently used places as hiding places for objects such as jewelry, weapons, narcotics, art or worship, include the upholstery of seats, benches and doors, gas tanks, body elements, wheelchairs, radiators, headlights etc. (Stancu 2017, 512-513).

Searching for open sites involves searching for objects on clearly demarcated, fenced areas or land that belong to the person being searched, or that the person using them exclusively or together with a limited number of people.

In order to search the open places, the characteristics of the searched objects will be taken into account, as well as the particularities of the researched place (Stancu 2015, 513).

The open places are extremely diverse, either around the house (yard, garden, cultivated land), or out of town (field, forest, leisure spaces) (Ionescu 20017, 193).

In order to obtain the data necessary to know the places to be searched, we will proceed with maximum discretion, avoiding alerting the persons concerned, meaning that we will call on the support of local state administration bodies, the management of legal entities, in compliance with legal provisions (Ciobanu and Stancu 2017, 225-226).

The first measures that will be taken on the spot aim at organizing and establishing the manner of conducting the search. Given that the main way to hide objects or corpses, in open places, is burial, the criminal investigation body will have to take into account the specific traces of this mode of operation (Stancu 2015, 513-514).

After the search, a report shall be drawn up stating:

- Date and place of the search;
- The name and quality of the one who concludes it;

- Identification data of assistant witnesses and other persons present;
- The findings made;
- The objects and documents found, with the exact description of the individualizing characteristics and the conditions in which they were discovered;
- Measures taken: lifting, leaving in custody;

The minutes will be signed by all participants and the photos, videos and sketches prepared on this occasion will be attached (Ionescu 2017, 193).

Conclusions

The search is an activity that must be organized in great detail, being necessary in criminal cases to find out the truth. It must be carried out with quick intuition by the judiciary, characterized by strength, mobility and dynamism.

It can be seen that the search is an activity consisting in the complete gathering of evidence, the discovery of new elements likely to expand the scope of the research in question, as well as the preservation of evidence.

For each type of search (home, body, computer, from a vehicle), the same tactical rules apply, by establishing the actual methods of execution, material means, time and participants.

Among the important factors in the preparation of the search activity, we also mention those of a psychic nature, the judicial bodies following, throughout the process, the behaviors of the searched persons.

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Characterization of the Use of Google Classroom in the 2020 COVID-19 Year, by the Students of System Engineering of the TECNM Campus, Instituto Tecnológico de Mexicali

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ABSTRACT: During this year 2020, the COVID-19 pandemic has prompted people to look for online communication tools such as Google Classroom. The objective of this quantitative research is to measure the impact on users of the computer systems engineering career of the Instituto Tecnológico de Mexicali with 395 enrolled students and make a diagnosis, based on the results of a survey applied to 65 students.

KEYWORDS: TECNM, COVID-19, Google, Classroom, Systems Engineering

Introduction

At the Tecnológico Nacional de Mexico, Campus Instituto Tecnológico de Mexicali, since the beginning of the COVID-19 pandemic, strategies were implemented to continue with the teaching of online classes that search was exhaustive with the objective of designing a strategy that was efficient for students to learn during this difficult time. One of the various platforms studied was Google Classroom, which is the root of why this research was carried out.

Methodology

The first step that we followed when writing this investigation, was to explain the research design and the conception of the research idea after the research problem. Later, we defined the research objectives, formulation of research questions. In addition and following the methodology, we explain the type of methodology to follow according to the proposed objectives. Then we will focus on the specific description of our study population, indicating the main factors by which it has been delimited, also including the statistical formula used to determine the sample.

Once entering the survey, we will show the main variables that we have included in the research and the measures used to convert them into operations.

On the other hand, we dedicate a section to the analysis of the measurement scales, so that we characterize the different dimensions of competitiveness according to the model used, based on a factor analysis, as well as verify the reliability and validity of the previous ones. The scale of measurement with which we obtained the information will be used to finish the review of the hypotheses and analyze the results obtained to finally write the conclusion.

$$n = 71 \quad N = 395 \quad Z\alpha = 1.96 \quad p = .16$$

$$n = \frac{395 (3.8416) (0.5) (0.5)}{(40395-1)(0.0025)+(3.8416)(0.16)(0.16)} = 65$$

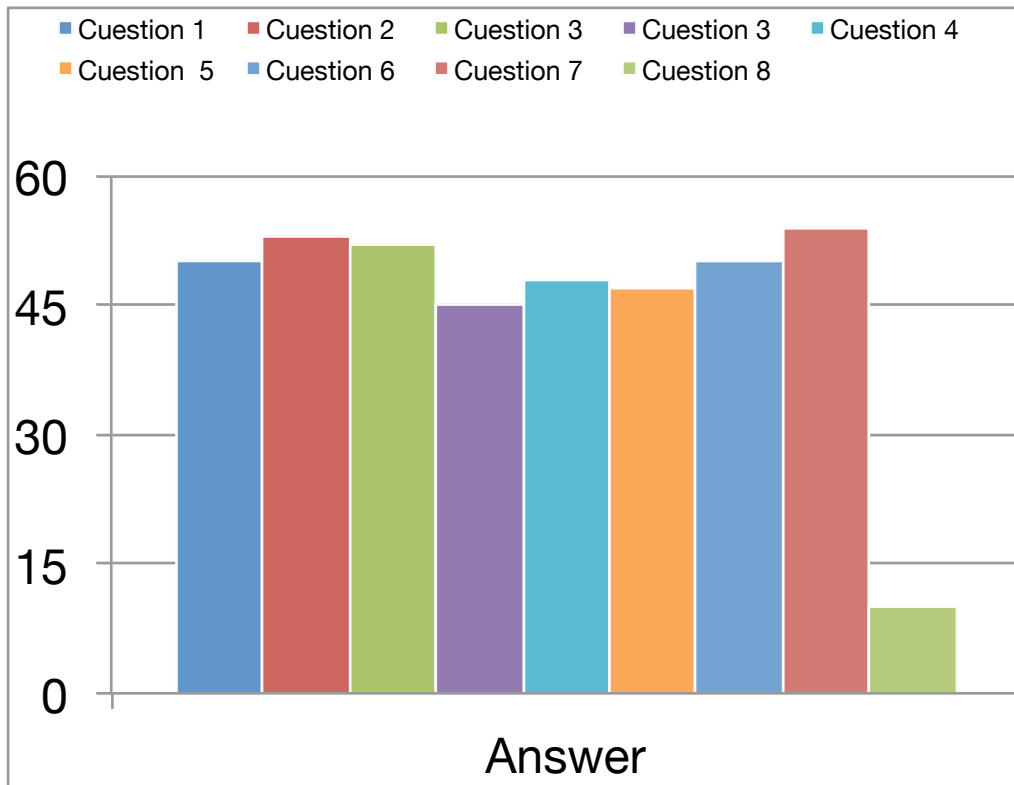
Survey

1. During this year's 2020 COVID-19 pandemic, the Google Classroom platform is used in the subjects of the Computer Systems Engineering career at the Instituto Tecnológico de Mexicali, or is known by students.
2. During this year's 2020 COVID-19 pandemic, the Google Classroom platform that is used in the subjects of the Computer Systems Engineering career at the Instituto Tecnológico de Mexicali is used regularly in classes.
3. During this year's 2020 COVID-19 pandemic, the Google Classroom platform that is used in the subjects of the career of Computer Systems Engineering at the Instituto Tecnológico de Mexicali will be recommended to other students.
4. During this year's 2020 COVID-19 pandemic, the Classroom platform that is used in the subjects of the career of Computer Systems Engineering at the Instituto Tecnológico de Mexicali, considers them necessary for better learning.
5. During this year's 2020 COVID-19 pandemic, the Classroom platform that is used in the subjects of the Computer Systems Engineering career at the Instituto Tecnológico de Mexicali, Apart from the use in class you have seen them being used in some other career.
6. During this year's 2020 COVID-19 pandemic, the Google Classroom platform that is used in the subjects of the Computer Systems Engineering career at the Instituto Tecnológico de Mexicali, In the last 12 months you have used them.
7. During this year's 2020 COVID-19 pandemic, the Google Classroom platform that is used in the subjects of the career of Computer Systems Engineering at the Instituto Tecnológico de Mexicali, If you had the opportunity to use this technology you would use it.
8. During this year's 2020 COVID-19 pandemic the Google Classroom platform that is used in the subjects of the career of Computer Systems Engineering at the Instituto Tecnológico de Mexicali, considers them reliable for use in the classroom

With the following multiple-choice answers:

- Strongly Disagree
- Disagree
- I slightly disagree
- A little agreement
- Agree
- Totally agree

Tabel 1: Results



Conclusion

The Google Classroom platform, if it is known by the students, besides being considered useful, and if it is used regularly in classes, and students recommend it to other students, and consider them necessary for a good learning, it was detected that not all the students use the Google Classroom. Based on the answers obtained, more than 70% of the students surveyed use it, 95% of the students surveyed want to use it, 70% of the students consider it a reliable tool, and more than 95% of students are considered technology enthusiasts.

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Outcomes of Internationally Wrongful Acts and COVID-19 Pandemic

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ABSTRACT: It is one of the basic principles of international law that the state that makes an act contrary to international law must compensate for the damage arising from this act. Accordingly, when an international commitment has been breached, it is a principle of international law to adequately remedy it; therefore, reparation is a mandatory complement condition in the execution of a contract, without it being written in this contract. The core legal consequences for the responsible state on the commission of an internationally wrongful act are twofold: to cease the wrongful conduct and to make full reparation for the injury caused by the internationally wrongful act. Injury includes any material or moral damage, emerged as a result of an internationally wrongful act of a state. "The general principle that the legal consequences of an internationally wrongful act do not affect the continued duty of the State to perform the obligation it has breached. As a result of the internationally wrongful act, a new set of legal relations is established between the responsible State and the State or States to whom the international obligation is owed. But this does not mean that the pre-existing legal relation established by the primary obligation disappears." "In particular, all states in such cases have obligations to cooperate to bring the breach to an end, not to recognize as lawful the situation created by the breach, and not to render aid or assistance to the responsible state in maintaining the situation so created." This study focuses on the actual situation that emerged during the COVID-19 pandemic process by examining the issue of international tort and its consequences.

KEYWORDS: Internationally Wrongful Acts, COVID-19 Pandemic, State Responsibility, Cessation, Reparation, Restitution, International Compensation

Introduction

It is one of the basic principles of international law that the state that makes an act contrary to international law must compensate for the damage arising from this act. Accordingly, when an international commitment has been breached, it is a principle of international law to adequately remedy it; therefore, reparation is a mandatory complement condition in the execution of a contract, without it being written in this contract. The core legal consequences for the responsible state on the commission of an internationally wrongful act are twofold: to cease the wrongful conduct and to make full reparation for the injury caused by the internationally wrongful act (Verma 2017, 161). Injury includes any material or moral damage, emerged as a result of an internationally wrongful act of a state.

Generally, loss is a concept that is not only about economic interests, but also about moral interests. Indeed, the claim that the existence of harm is a necessary element for an act contrary to international law is usually due to the concept of "harm" being used in this sense. Here it is possible to conclude; "any breach of an obligation towards another State involves some kind of 'injury 'to that other State'" Therefore, in an act contrary to international law, there is inevitable damage naturally, also in the event of a breach of an international obligation.

In the liability law, in order for the liability for compensation to arise, a loss must have occurred as a result of an unlawful act in tort, the occurrence of a typical danger in the responsibility of danger, or the violation of the objective due diligence obligation in the usual cause. Because there is no legal responsibility where there is no harm (Eren 1998, 487). The element of harm under the responsibility of the state has been one of the most important issues that the international community has focused on. This issue can be explained by the progressive

development of international law according to the emerging needs of the international community.

Every internationally wrongful act has some legal consequences, these consequences are aimed at the restoration of the legal relationship that has been threatened or impaired by the breach. The obligation continues to bind the responsible state. Therefore, the state remains obliged to perform the obligation in question. In this respect, Article 29 states “the general principle that the legal consequences of an internationally wrongful act do not affect the continued duty of the State to perform the obligation it has breached. As a result of the internationally wrongful act, a new set of legal relations is established between the responsible State and the State or States to whom the international obligation is owed. But this does not mean that the pre-existing legal relation established by the primary obligation disappears” (Article 29, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries 2001, 88).

“In particular, all states in such cases have obligations to cooperate to bring the breach to an end, not to recognize as lawful the situation created by the breach, and not to render aid or assistance to the responsible state in maintaining the situation so created. In this respect, Article 40 states general framework of the international responsibility which is entailed by a serious breach by a State of an obligation arising under a peremptory norm of general international law” (Article 40, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries 2001, 112). In addition to that, Article 41 sets out the particular consequences of breaches of the kind and gravity referred to in article 40 (Article 40, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries 2001, 113-114).

Cessation and Non-repetition

The first requirement in eliminating the consequences of the wrongful conduct is the cessation of that conduct. Reparation in many cases may not be the central issue in a dispute between states related to responsibility. In the case of the COVID-19 pandemic, the Chinese government firstly warned WHO about the emergence of a new type of coronavirus. This could be accepted as the cessation of a wrongful act for China. Because spreading of the pandemic from China to all over the world was the main issue. “The state responsible for the internationally wrongful act is under an obligation:

- a) To cease that act, if it is continuing;
- b) To offer appropriate assurances and guarantees of non-repetition, if circumstances so require” (Article 30, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries 2001, 88).

In fact, Cessation means often points to the downside of future performance and is about ending wrongful conduct, in the contrary, assurances and guarantees serve as a preventive function and refers to as a positive aspect of future performance. “In accordance with article 2, the word “act” covers both acts and omissions. Cessation is thus relevant to all wrongful acts extending in time “regardless of whether the conduct of a State is an action or an omission ... since there may be cessation consisting in abstaining from certain actions” (Article 30, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries 2001, 88).

Putting an end to the ongoing violation means starting to act as required by the obligation, which means only beginning to comply with the obligation. Therefore, the duty to comply with the obligation will be fulfilled in this way. As long as this is not done, no assurance can be given that the second method described in Article 30 will not be repeated.

The “emphasis on the rule of law as the basis for cessation also entails practical consequences. First, cessation is not at the option of the injured state; the violation must cease, even if the injured state does not demand it. Second, cessation is not subject to the limits of proportionality, which the articles impose on restitution and other forms of reparation.

Compliance with the norm must be restored. The responsible State's obligation of cessation thus protects both the interests of the injured State or States and the interests of the international community as a whole in the preservation of, and reliance on, the rule of law” (Shelton 2002, 840).

There are also situations where a state has violated an obligation on a series of occasions, implying the possibility of further repetitions. Cessation and the offer of assurances and guarantees of non-repetition by the responsible state are particularly important where there is a threat of repetition. In certain circumstances, like pandemic, the responsible state must offer appropriate assurances and guarantees of non-repetition to the state or states to which the obligation is owed. Therefore, the non-repetition guarantee deals with potential violations and focuses on prevention rather than reparation. Although the guarantee of non-repetition can be seen as a form of satisfaction, it is more appropriate to consider the guarantee of non-repetition in terms of the repair and continuation of the legal relationship affected by the violation. This obligation is future-oriented and, in the context of Article 48 of the Final Text, is also related to states other than the directly damaged state. The guarantee of non-repetition is about turning to legality rather than compensation for damage, together with the obligation to stop (Nollkaemper 2009, 546).

Concerning COVID-19 pandemic, China should give guarantee non-repetition of similar acts in the future. In order to provide assurance that an ongoing violation will not be repeated, it is necessary to end the violation first and to start to comply with the obligation. However, when it comes to China and infectious disease, it is not very convincing to comply with the guarantee to be given in this case. Because, considering that infectious diseases such as SARS and MERS, which have occurred in the last 20 years, originated from China and spread to many parts of the world and caused the death of thousands of people. In the next period, there is absolutely no guarantee that no other virus will emerge from China after the new type of corona virus. This situation is in fact not acceptable to other states. At this point, it requires the international community to take a more serious and decisive stance regarding possible epidemics that may originate from China. It should not be forgotten that any state suffers economic and political losses due to an event caused by its negligence or fault, or that this situation affects the national interests of other states is incompatible with international law and universal principles.

Reparation

The content of new obligations that automatically arise when States take an international act of wrongdoing falls under State responsibility law. In practice, it is possible to say that the reparation is more than an indicator of goodwill. Reparation is the most common consequence of state responsibility.

The reparation duty of the responsible state against the directly damaged state is an element of the classical legal responsibility of international law, in classical legal liability; the redress is only between the damaged state and the damaging state. However, sometimes this could be between damaging state and global world as in the COVID-19 pandemic.

In this respect, the responsible state is obliged to make full reparation for the consequences of its breach, especially where actual harm or damage has occurred, provided it is not too remote or indirect.

- 1) “The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act.
- 2) Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State” (Jankiewicz 2012, 88).

“Rather than relying on the primary obligation, the Statute defines reparations as arising from the breach of an international obligation. The ILC followed the same approach and defines the obligation to make reparations in relation to the injury sustained and not pursuant to primary

rules, as made clear by Paragraph 2 of Article 31. The Commentary expounds that this formulation ‘makes clear that the subject matter of reparation is, globally, the injury resulting from and ascribable to the wrongful act, rather than any and all consequences flowing from the wrongful act. The obligation to make reparation arises from injury, and the obligations contained in the breached primary rule are to be viewed as ‘other consequences’ derived from the wrongful act. This definition of injury gives a potential legal interest to States which are affected by the internationally wrongful act, but do not have the standing to invoke the primary rule that has been breached. It also implies that States other than the specially injured State can claim reparations qua injured States, pursuant to Articles 42 and 48. In sum, the Articles on State Responsibility circumscribe injury primarily within the damage caused by the internationally wrongful act itself, without referring to the primary obligation breached” (Jankiewicz 2012, 44).

Regarding reparation, it is the general principle that all losses arising from the violation should be recovered. Therefore, the remedy must be proportional to the severity of the violation. “In addition, the obligations of cessation and reparation do not depend upon a complaint being brought by an injured State. In all instances, the duty to perform the obligation breached remains; the mere fact of a violation does not terminate a treaty nor discontinue any obligation imposed by general international law. Instead, the first duty is to cease the wrongful conduct. Second, the responsible State is under an obligation to make full reparation for (the injury caused) by the internationally wrongful act. Injury can be material or moral” (Shelton n.d., <http://www.corteidh.or.cr/tablas/r30119.pdf>).

“Article 32 adds that the responsible state cannot invoke its own law as a basis for failing to provide reparations. The commentary indicates that full reparation means that the responsible state is obliged to wipe out all the consequences of the illegal act by providing one or more forms of reparation as set forth in Chapter II. The forms of reparation, listed in Article 34 and discussed more fully below, are restitution, compensation, and satisfaction, either singly or in combination, accompanied in appropriate cases by interest.”

Concerning COVID-19 pandemic, China, which seems responsible for the formation of this pandemic and its spread to the whole world, needs to repair the damages that other states and their citizens have caused. However, considering the statements from China, the Chinese government does not bear the economic damages and loss of life. Whereas, “in any event, reparation is the “indispensable complement” of a failure to apply a convention; it is a duty of the wrong-doing state and not a right of the injured party, and it is a duty that arises automatically upon the commission of a wrongful act.

In fact, in Article 31 of the Draft Articles obligation of reparation is stipulated as the general consequence accompanying the responsibility of the State. As such, the obligation to repair does not arise from a right granted to the Victim State, but directly from responsibility. In other words, this obligation is defined not through the victim State, but through the responsible State, because it is a direct result of the responsibility and occurs spontaneously as a consequence accompanying the responsibility. As such, when the tort is committed by the breach of an obligation to more than one State, the difficulties that may arise from harming only one or several States are overcome. Thus, even before the affected State or States act and request repair, the automatic obligation to repair is legally obliged the underlying principle is that reparation must restore the **status quo ante** (the previous or last contested state before the current state). “Reparation should, insofar as possible, wipe out the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed” (Erkiner 2010, 207). In other words, According to international law, China must fulfill its liability for the tort it has committed the damage it has done to all states and citizens affected by the COVID-19 pandemic.

Article 35 has adopted the narrower definition, which has the advantages of focusing on the factual situation assessment rather than the hypothetical situation that would have occurred

had the tort had not occurred. As can be clearly seen in the article on compensation, the narrow definition adopted by article 35 sought to be completed with compensation in order to completely compensate the damage caused. Nevertheless, what is most in line with the general principles is the obligation of the responsible state to eliminate all material and legal consequences of tort by reestablishing the situation that would have existed if the tort had not been committed.

Restitution

Restitution related to the re-establishment of the situation, as far as possible, which had existed prior to the commission of the internationally wrongful act. “Law and economics analysis may question the primacy of restitution on grounds of efficiency, and, indeed, compensation might be more utilitarian than restitution in many cases. The logic behind restitution appears grounded in other values, however, such as the equality of states. Restitution avoids forced sales whereby a wealthy state can pay to obtain and keep a benefit, territory, or resource that could not be obtained by a poor state through similar (illegal) means. The more extensive burden of restitution might also act as a deterrent, for example in environmental cases, where remediation or restoration of the damaged milieu usually costs much more than compensation for financially assessable harm” (Shelton 2002, 844). The injured state has the authority to request a return from the state that committed an international tort in a way that restores the situation before the wrongful act was committed. Restitution;

- ✓ If not financially impossible,
- ✓ Does not involve the breach of the obligation arising from the mandatory norm of international law,
- ✓ If the benefit to be obtained by the damaged state from returning the compensation to its former state does not create a disproportionate burden
- ✓ If the exact return is not achieved, the damaged state is similarly unaffected, while the wrongdoing must seriously endanger the economic stability or political independence of the state (Ertuğrul 2011, 190-191).

Concerning these conditions above, the restitution seems very difficult reparation form about COVID-19 pandemic because how can China retribute other states financial and political loss and how can bring back more than 1 million dead people and how can restore to world to old form before new type corona virus.

In fact, Restitution is particularly important in cases of mandatory violations and ongoing violations. In this respect, at the very beginning of the pandemic process, the delay of the Chinese administration to notify the World Health Organization of the epidemic and the subsequent notification can be considered in this context. For example, the unlawful addition of land by a state to its country, the occupying state's withdrawal of the occupying forces, and the invalidity of the order that unjustly gained territory can be seen as a suspension or an end to the wrongdoing rather than returning the former state.

Compensation

Compensation is intended only to indemnify quantifiable losses suffered by the injured state. For this reason, compensation is perhaps the most common in international practice. In the event that compensation is not provided or when the consequences of the damage caused are not completely eliminated, the state that caused the damage due to the wrongful act is obliged to pay to the injured state and its citizens the financially calculable compensation including the loss of profit. The basic requirement of compensation is that it should cover any financially assessable damage flowing from the breach

The “commentary makes clear that the obligation of full reparation excludes exemplary or punitive damages or other awards that would extend beyond remedying the actual harm suffered as a result of the wrongful act. The stated goal of full reparations raises numerous problems of

determining the **financially assessable damage**, including loss of profits, which are discussed in connection with Article 36, on compensation. Overall, however, it can be said that terms like ‘full reparation’ and ‘make the injured party whole’ do not facilitate decision making by tribunals or claims practice of parties because they are too general to provide practical guidance.” (Shelton n.d., <http://www.corteidh.or.cr/tablas/r30119.pdf>).

“Compensation corresponds to the financially assessable damage suffered by the injured State or its nationals. It is not concerned to punish the responsible State, nor does compensation have an expressive or exemplary character.”(Article 36, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries 2001, 99) Compensation is normally a matter of negotiation. There are no established principles for calculating the sum to be paid. In many cases though, the quantification of damage is only approximate. In other cases such as those involving loss of property (e.g., expropriation), the damage is assessable in the context of market price, including even the loss of profits, and therefore it may become compensable. The qualification “financially assessable” excludes compensation for non-material damage (referred to as “moral damage”), for example, the affront or injury caused by a violation of rights not associated with actual damage to property or persons. International tribunals have been reluctant to grant exemplary or punitive damages. (Verma 2017, 163)

The scope of the compensation is usually “replacement costs for destroyed property, costs of repairing damaged property, and lost profits are all discussed, as are the kinds of harm that are more difficult to measure financially, such as loss of life, arbitrary detention and other personal injury, and environmental damage” (Shelton n.d., <http://www.corteidh.or.cr/tablas/r30119.pdf>).

Although it is accepted as the basic principle for restitution, it is not possible or insufficient compensation for most of the time, making the most preferred form of expense. Even if restitution is materially possible or does not constitute an excessive burden due to the principle of proportionality, the damaged states often prefer compensation. In addition, compensation plays a role in filling this gap in cases where reinstatement cannot provide full compensation.

Concerning the COVID-19 pandemic, the compensation seems better way to recover loss of injured states and its nationals. However, especially the difficulty and complexity of detecting the damage in developing economies and the determination of the amount of compensation to be determined is one of the biggest obstacles. In addition, the real obstacle to overcome is whether China will accept its flaws in the pandemic process and accept to pay compensation. Considering past experiences and current discourses of China, it is possible to say that it will ignore the compensation demands from other countries and have no intention of taking responsibility for this epidemic. On the other hand, the amount of compensation to be paid will be quite high under current conditions. Considering the amount of states and citizens damaged by the pandemic, it is possible to say that this amount is already at the level of trillion dollars.

Satisfaction

Satisfaction is the remedy for those injuries that are not financially assessable but amount to an affront to the state. “These injuries are frequently of a symbolic character, arising from the very fact of the breach of the obligation, irrespective of its material consequences for the state concerned.” (Article 37, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries 2001, 106) “Satisfaction may consist of an acknowledgment of the breach, an expression of regret or apology, or ‘another appropriate modality’ that is neither disproportionate nor “humiliating” to the responsible state.” (Shelton 2002, 848)

Satisfaction is also available for the injury that is sometimes described as “non-material injury”. In many cases, an authoritative finding or declaration of the wrongfulness of the act by international courts and tribunals has been held to be sufficient satisfaction. Though a “declaration by a competent court or tribunal may be treated as a form of satisfaction in a given

case, such declarations are not intrinsically associated with the remedy of satisfaction. Regret or apologies by the responsible state is also a form of satisfaction” (Verma 2017, 164). Article 31 of the Draft Articles draws general framework of satisfaction in three sections

- 1) “The State responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by restitution or compensation
- 2) Satisfaction may consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality
- 3) Satisfaction shall not be out of proportion to the injury and may not take a form humiliating to the responsible state” (Article 37, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries 2001, 105).

Article 37 is divided into three paragraphs, each showing a separate dimension of satisfaction. The first paragraph shows the type of damage assumed and the legal character of satisfaction. The second paragraph enumerated some forms of satisfaction. The third paragraph restricts the said liability for its unreasonable forms. Pecuniary or non-pecuniary damage arising from international tort can normally be valued economically in order to be subject to compensation. However, for the satisfaction of damages that humiliate a state, there is no financial appraisal of the damage. These damages are mostly symbolic in nature. These are also called non-material damages.

There are many instances where satisfaction is desired when a state's international tort causes non-material damage to another state: (Bozkurt, Kütükçü, and Poyraz 2003, 283). These examples include

- ✓ Deliberate attacks on heads of state or government, representatives of embassies, consulates or other protected persons or their buildings
- ✓ Annexes or violation of territorial integrity and sovereignty by attacking planes, insulting state symbols such as flags. (Article 37, Draft Articles on Responsibility of States for Internationally Wrongful Acts with Commentaries 2001, 105).

It is stated in Article 37/2 that satisfaction can consist of acknowledgment of the violation, a statement of repentance, an official apology or other appropriate forms. Appropriate forms of satisfaction are not previously stated and will be determined by the specific situation. The absence of an international rule of law regarding the content and scope of satisfaction required a decision by the injured party or unilaterally or by the arbitral authorities. (Hagy 1986, 185) Saluting the flag of the state that has been damaged morally and the administrative and legal sanctions of the state official who caused the damage are seen as a form of satisfaction in practice. (Bozkurt, Kütükçü, and Poyraz 2003, 283) Also, in Germany, the obligation to include the Jewish genocide in school textbooks or to make a program on the relevant genocide on state televisions can be given as examples (Doğan 2008, 237).

Although the trend towards satisfaction in practice differs from materially compensatory forms of compensation such as compensation or restitution, this distinction is not absolute. Although the satisfaction is not of a criminal nature, the existence of preventing or deterring the occurrence of tort is not denied.

Concerning COVID-19 pandemic, the satisfaction can be accepted as most reasonable and cheapest way for the China. However, it is possible to say that the Chinese government did not even consider a formal apology, let alone acknowledging the satisfaction method. Of course, not apologizing or taking responsibility for the pandemic will not make China innocent.

It has been argued that the lack of institutions that do not have the ability to execute functions such as punishing and prosecuting crimes committed by states may make it more necessary to apply for mitigating solutions, and this increases the scope of application of satisfaction. Satisfaction was not seen as contrary to state sovereignty, it was considered as a form of taking heart. Limiting the outcome of international tort to restitution or compensation

means ignoring the necessity of some specific solutions for moral, political, and judicial mistakes, which has been one of the points for satisfaction supporters. (Ertuğrul 2011, 69)

Conclusion

The international responsibility of the State may also arise from a breach of bilateral obligations or from a breach of an obligation to more than one State. In fact, responsibility may have arisen from the breach of an obligation to the general of the international community. As in the example of the spread of the Corona virus all over the world, breach of an international obligation can affect the entire international community. A State may exhibit relatively mild torts, as well as much more severe torts than these. “Severe violations of the obligations to the general of the international community” will constitute such grave tort.

In addition, it is an undeniable fact that there is a connection between the actual situation, namely the damage (material and moral damages caused by the corona virus) and the cause. While the breach of an international obligation is necessary for an act contrary to international law, it is not sufficient. An additional condition is necessary to create an automatic link between the state to which the act is attached and the claiming state in terms of responsibility; this is the existence of a damage suffered by the claiming state. Here, the necessity of harm is not part of the primary rules, but is related to secondary rules, as the existence of harm will come to the fore at the diplomatic or judicial level. Therefore, a state will only have liability if another is harmed due to an illegal act. The necessity of the damage derives from the fundamental legal postulate that “no person can bring a case without a legal interest”. In this respect, states do not have floating rights to seek redress for any violation or contravention of any other state. (Bal 2006,152)

In this respect, it is obvious that in the corona virus pandemic that affects the whole international community, the Chinese administration is responsible for the damages it has inflicted on other states and its citizens due to the violation of its international obligations, and that this responsibility is obliged to compensate. For example, in the USA, “Missouri’s attorney general filed a lawsuit against the Chinese government over its handling of the outbreak, saying China’s response led to devastating economic losses for the state. Missouri’s lawsuit was filed in a federal court last April by state Attorney General Eric Schmitt, alleging negligence on China’s part. The complaint said Missouri and its residents have lost possibly tens of billions of dollars, and it seeks cash compensation. The Chinese government lied to the world about the danger and contagious nature of COVID-19, silenced whistleblowers, and did little to stop the spread of the disease” (Tan 2020). However, “China is bound by international law to report crucial public health information in a timely, accurate and detailed manner. However, it ‘failed in its obligations to do this’ through December and January in the early stages of the outbreak” (Henderson, Mendoza, Foxall, Rogers, and Armstrong 2020, 16).

It is seen in the official statements that China will not accept responsibility for these claims and that the virus has emerged naturally and has spread to the world outside of its control, and will claim that other states have not taken the necessary precautions even though they warn the world and will defend itself in this way.

In this case, it is possible to say that China rejects those claims will try to ignore the compensation claims and resist the judiciary as much as possible. For instance an official transcript of a regular press briefing of Chinese foreign ministry spokesman Geng Shuang: The lawsuit from Missouri ‘has no factual or legal basis’ and “it only invites ridicule,” The Chinese Government did nothing but warn the World Health Organization and the USA and other relevant countries about the pandemic in an open and transparent manner. “Such a lawsuit is nothing short of frivolous litigation which defies the basic theory of the law,” “Based on the principle of sovereign equality prescribed by international law, US courts have no jurisdiction over the sovereign actions taken by Chinese governments of all levels in response to the

pandemic” (Tan 2020). In other words, states have sovereignty free of judgment, so if China does not want to, trial is not possible. Since China will not be a party to this case, even if compensation is awarded, China will not pay it.

However, the international community may need to use economic and security tools to force China to sit on the table by legally claiming the damage caused by the pandemic. In this case, for example, it may be possible to see all states around the world to act together to boycott Chinese goods and to see embargoes and sanctions against China in the coming days. If there is no consensus within the international community on sanctions against China, then any state may suspend its legal obligations to China in order to persuade China to pay compensation. If the world does not act in response to this breach of international obligation the states will have to calculate when the next virus will exit from China. To take action against such wrongful act of state requires not only courage but also global solidarity.

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False Deeds under Private Signature

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ABSTRACT: The crimes under the name of “False Offenses” constitute a well-defined and highly varied category in the vast sphere of facts considered to be dangerous. Any social relationship concerns and is based on a certain reality that the subjects of the relationship have in mind and whose existence therefore implies a mutual good faith and trust on the part of these subjects. Without the duty of respect for the truth and without the feeling of trust that the truth is actually respected, social relations would be possible only with difficult precautions and inevitable risks. Therefore, the criminal law considered that it is necessary that, in order to protect social relations, to ensure the normal formation and development of these relations, to be incriminated the deeds by committing which, altering the truth, creates a serious danger or harm certain social relations. These categories of facts can be determined either on the basis of the special way in which the truth is altered or on the specifics of the social relations reached by the act of altering the truth, or due to the nature of the trust that is given to the truth. These differences obviously appear in the sphere of crimes that involve an alteration of truth. In the group of false crimes, the alteration of the truth is made on some entities (things) which are legally attributed the property of serving as evidence of the truth they express or attest on the occasion of various social relations (coins, stamps, credit titles, seals, marking tools, documents, etc.), and trust is objectively given to the thing which in itself constitutes the proof of the truth.

KEYWORDS: false, social relations, crime, truth, criminal code, documents, alteration

Introduction

The notions of “false”, “falsification” and “trust”

The term “false” comes from literary Latin, more precisely from the adjective “falsus” and means something contrary to the truth or which has the appearance of truth; any labor, any procedure used by one person to mislead another person.

False, in a broad sense, is everything that does not correspond to the truth. The notion of “false” is an antinomy concept, derived from the notion of “truth”. There can be no falsehood, that is, an alteration of truth, except where the existence or possibility of the existence of truth is conceivable (Dongoroz et al. 1972, 358).

In other words, falsehood consists in altering or distorting the truth; it is called false what has only the appearance of truth, what is untrue, inauthentic, artificial, counterfeit (Stoica 1976, 327).

In the very comprehensive sphere of social relations, regardless of their importance and scope, individuals and legal entities necessarily use different things, signs or documents (coins, stamps, credit titles, trademarks, official documents, etc.), which due to their value evidence, imprints certainty and stability to these relations, thus making possible their very formation and development, in accordance with the general interests of society; for this it is necessary, on the one hand, that the said things, signs or writings, really reflect the truth which they are called upon to express, and, on the other hand, that they enjoy the general confidence of the public, considered in masse in terms of their authenticity and veracity.

Counterfeiting is the operation by which the act of altering the truth is performed. Counterfeiting presupposes, like falsehood, the existence of a truth and things, entities that serve to prove it and on which the action of altering the truth is performed. Nothingness cannot be falsified (Dongoroz et al. 1972, 352).

Not every false is a criminal false. Therefore, in criminal law, only the forgery is incriminated, which, through the consequences or the possibility of producing legal consequences, presents a certain degree of social danger (Stoica 1960, 35).

Regarding the reason for incriminating these antisocial facts, it was argued (Papadopol 2007, 12-13) that the criminal law does not criminalize any distortion of the truth, any lie, its intervention takes place only when the lie may infringe one of the social values provides them with protection (patrimony, person, administration of justice, etc.). But even in these cases the criminal law does not create from false a general crime, but, compared to the more accentuated social danger that certain procedures of distorting the truth present, it confines the incrimination only to these.

The facts incriminated as false crimes concern the alteration of the truth and therefore the falsification only when it bears on any of the entities (things) with probative properties shown in the incriminating dispositions (Dongoroz et al. 1972, 359).

The words “false” and “falsification”, accompanied by certain specifications, are also used in the case of other incriminations provided in the Criminal Code, for example: destruction or false signaling (art. 332); counterfeiting or substitution of food or other products (art. 357), but these deeds do not constitute false crimes. They are also committed by an alteration of the truth, but they do not regard in their materiality things which have the legal property of serving as evidence (*Ibidem* 358).

The legal content and the constitutive content of the false deeds under private signature

False deeds under private signature is the act of the person who falsifies such a document by counterfeiting the writing, the subscription or by altering it in any way or by attesting facts or circumstances untrue or by knowingly omitting to insert certain data or circumstances, if the forged document is used or entrusted to another person, in order to produce legal consequences.

If the criminal law did not criminalize the false deeds under private signature, the probative power of these documents would become completely random and social relations, in the formation and development of which the need for documents under private signature is undisputed, would suffer a serious harm (Dongoroz et al. 1972, 440).

Pre-existing element

The special legal object

The special legal object of false deeds under private signature is the same as in the case of tampering with official documents and crime of creating false documents, namely those special relations relating to public trust which, this time, must be inspired by privately signed documents (Antoniou and Toader 2016, 520).

The material object

The material object is the false deeds under private signature. As with the other previous crimes (tampering with official documents and crime of creating false documents), the falsified document is also the product of the crime (Pascu and Lazăr 2004; Pascu and Gorunescu 2009, 520).

Considering these provisions, we can define the documents under private signature as those documents that emanate from other persons than those mentioned in art. 176 of Romanian Criminal Code or from other persons than those provided in art. 175 para. (2) of Romanian Criminal Code which bear a signature and are likely to produce legal consequences.

In this sense, there are documents under private signature: unauthenticated documents, which include expressions of will of a particular person regarding patrimonial or other rights and obligations (for example, deeds of sale, holographic wills, receipts, contracts of hire); acts by which commercial operations carried out by different persons are ascertained, in general, all

private acts likely to constitute the basis of some claims, to serve to establish a right or which cause a right to be presumed or to cause a prejudice.

If the documents under private signature are authenticated, they are converted into official documents.

Subjects of the crime

The direct active subject and the criminal participation

The direct active subject of the crime of the false deeds under private signature may be any person who meets the conditions of criminal liability and who has a certain skill or dexterity in counterfeiting or alteration or attestation of facts or circumstances untrue or omits the insertion of data or circumstances. The act may be committed directly by several persons (co-perpetrators) or in criminal participation, in the form of instigation or complicity. Improper participation is not excluded either (Pascu and Lazăr 2004; Pascu and Gorunescu 2009, 521).

The passive subject

The passive subject of the crime is that natural or legal person holding the social value which was harmed by committing the criminal act suffered the harm produced by committing it.

In principle, a passive subject can be any natural person regardless of age, even irresponsible, because any member of society is the holder of social values protected by criminal law. However, only the living man can be a passive subject. Legal persons holding certain social values may be passive subjects of the crime.

Since the existence of the crime of false deeds under private signature is conditioned by the use of the forged document or by entrusting it to be used, in order to produce a legal consequence, the passive subject - certain or possible - of this crime is a natural or legal person whose interests, material or moral, were or would be affected by the use of the forged document in its materiality or in its content (Pascu and Lazăr 2004; Pascu and Gorunescu 2009, 521).

The structure or legal content of the crime

The structure of criminalization of false deeds under private signature includes: the premise situation and the constituent content, as component parts.

The constitutive content of the crime

It consists of: the objective side and the subjective side.

A. The objective side

The objective side includes the material element, essential requirements, immediate follow-up and causation.

a) The material element

The material element of the crime of false deeds under private signature is made up of two actions committed successively, namely: the forgery of the document under private signature in any of the ways provided in art. 320 or art. 321, namely by counterfeiting the writing or the subscription or by altering it in any way or by attesting facts or circumstances untrue or by knowingly omitting to insert certain data or circumstances, and using the forged document or entrusting it to another person.

Counterfeiting of writing means fraudulent reproduction of the writing of an act to make it appear that the writing, as it was imitated, is the original one expressing the will of the author of the act. Completing a paper on which a person's signature is located, either without their consent or in a different way than agreed - the so-called abuse of signature in white is also a forgery by counterfeiting the document (Vasiliu et al. 1977, 276).

Counterfeiting the subscription involves imitating the signature of the person who should have signed the document if it was not forged.

It is irrelevant the degree of resemblance - greater or lesser - of the forged writing or signature to the writing or signature of the person to whom it is attributed.

The alteration of a document under private signature consists in the material modification of the wording of such a document, by additions, replacements, erasures, in any way, of numbers, words, and phrases or even by the use of juxtaposition procedures, such as bringing a paper with original signature and its paste on the bottom of the typed text.

The writing of the forged document in its materiality can be by hand or typed, written in Romanian or foreign language.

The falsification of a document under private signature by attesting facts or circumstances that do not correspond to the truth presupposes the presentation in the content of the document, in a distorted way, of the deed or circumstances on which the attestation is based.

The scientific omission to insert in the content of the document some data or circumstances occurs if the perpetrator does not include in the document these data or circumstances, although they should have been found in that document.

The falsification action, regardless of the manner in which it is carried out, constitutes a material element of the false deeds under private signature only if the author, after the execution of the forgery, uses the document himself or entrusts it to another person, but with the specified purpose of using it (Pascu and Lazăr 2004; Pascu and Gorunescu 2009, 522).

If in the case of the crime of tampering with official documents and crime of creating false documents the action of falsification, by any of the modalities provided in the incriminating texts, constitutes the material element of this crime, independent of the action of using these forged documents, in the situation of the crime of false deeds under private signature the material element implies, in addition to the action of forgery, the use of the forged document by the perpetrator or entrusting it to another person, but with the specific purpose of using it (*Ibidem*).

Only the cumulative but successive commission of both actions gives rise to the crime.

Essential requirements

In order for the act of forgery followed by the use of the forged document or entrusting it to another person to use it to complete the objective side of the crime of false deeds under private signature, several essential requirements must be met (Dongoroz et al. 1972, 443).

A first requirement is that the document under private signature must present all the features of such a document, namely to have a content with legal relevance, signature and date of writing. The character of the legal relevance does not matter (holographic will, rental contract, deed of receivable, certificate of receipt of a payment). A document without legal relevance, without a signature or without another possibility to be attributed to a person cannot be the object of a forgery in private documents.

The immediate result

The immediate result is the consequence of the criminal action or inaction which consists either in a state of danger for the value protected by law, or in a physical modification of the surrounding reality (Antoniou 1999, 28-31).

The action of falsifying a document under private signature has as an immediate consequence the creation of a state of danger for the social relations whose formation and normal development are stimulated by the public trust given to the probative value of the documents under private signature.

This state of danger to social relations regarding public trust in the probative value of a document under private signature is generated by the production of such a document with the appearance of a true document used by the forger or which he entrusted to another person for use. If the forged document is not suitable for use, the existence of immediate consequence is excluded and, consequently, it is not possible to realize the objective side of the crime in its entirety.

The norm of criminalization of false deeds under private signature does not require the production of other consequences. If the use of a forged private signature document causes other consequences, such as, for example property damage to a person, either a competition of offenses or a civil liability can be retained, as the case may be.

In the case where the forged private signature is entrusted to another person for use, and he does not use it or another circumstance beyond his control prevented him from using it, the immediate consequence of this crime occurred and become incidents the provisions of art. 322 of Romanian Criminal Code.

The causal link

There must be a causal link between the act of falsifying a document under private signature followed by its use or entrustment for use and the state of danger regarding the public trust granted to the probative value of such a document (Pascu and Lazăr 2004; Pascu and Gorunescu 2009, 523).

If the false private signature document came to be used by another circumstance than by the willful deed of the forger or of a person to whom the document was entrusted for use, the objective side of the crime provided in art. 322 from Romanian Criminal Code it is not realized, lacking the causal link.

B. The subjective side

a) The subjective element

The subjective element results from art. 16 para. (3) in conjunction with art. 322 of the Criminal Code, in the sense that false deeds under private signature is committed only with direct intent, which presupposes that the forger provides and prosecutes, both by the act of forgery and by the consequent action of using the false document or entrusting that document to another person for use, a production of legal consequences.

Therefore, in the case of false deeds under private signature, the perpetrator voluntarily commits both the forgery action, through one of the ways provided in art. 320 or art. 321 of the Criminal Code, as well as the action of using or entrusting for use the forged document; at the same time, he acts in this way “in order to produce a legal consequence”, thus having the representation of the occurrence of a legal action as a result of his actions caused - implicitly, of course, and of the danger that his deeds create for social relations by the damage done to the trust given to the documents - and pursues this result. The characteristic feature of the specific intention of false deeds under private signature consists precisely in the will to capitalize as evidence against a protected legal interest such a document with untrue content (Vasiliu et al. 1977, 280).

From the above, it is understood that the indirect intention to this crime is excluded. The subjective element of the crime of false deeds under private signature is realized even if the forgery was committed to prove a true fact, as a forged document always creates a state of danger to public trust, but such a circumstance may be considered as a mitigating circumstance [art. 75 para. (2) lit. b)] (Dongoroz et al. 1972, 444).

Judicial practice

False deeds under private signature. Crime of creating false documents. Use of false documents. Unofficial documents. The falsification of documents belonging to SNP Petrom SA and their use does not constitute the crime of creating false documents and use of false documents, because this company is not in the public interest, and its assets are also not in the public interest within the meaning of art. 145 and art. 150 para. (2) Criminal Code. As such, the mentioned facts constitute the crime of false deeds under private signature, provided by art. 290 old Criminal Code (SCJ 660/2002).

False deeds under private signature. Crime of creating false documents. Use of false documents. Unofficial documents. The act of the employee of a private company to draw up

unreal invoices for the delivery of some goods and to use them in order to justify some deficiencies in management constitutes the crime of false deeds under private signature provided by art. 290 of the Criminal Code, and not the crime of creating false documents provided by art. 289 and art. 291 of the Criminal Code, the documents forged and used in order to produce some legal consequences not having an official character (Antoniou and Toader 2016, 366).

False deeds under private signature. Forgery of the husband's signature. The act of a husband who, by submitting an application for a change of residence, signs it in two variants, in order to make it be believed that one of these signatures belongs to his wife, from whom he was in fact separated, constitutes the crime of false deeds under private signature (Supreme Court, s. pen., dec. no. 285/1974, in CD 1974, p. 430).

False deeds under private signature. Conditions for the detention of the continued crime

Criminal Code, art. 41 para. (2), art. 215, art. 290, art. 291

The fact of presenting several times a power of attorney on which the term of validity has been modified and misleading several persons from whom sums of money have been received represents the crime of fraud in a continuous form in competition with the crime of false deeds under private signature in continued form.

Conclusions

The commission of the crime of false deeds under private signature is possible only on the condition of the pre-existence of a state of fact or law against which the altered or counterfeit document under private signature is to be used as evidence.

The material element consists in the action of false deeds under private signature by counterfeiting the writing or the subscription or by altering it in any other way.

When the false occurs through counterfeiting, it is essential to imitate the signature on the document, this being the sign of the veracity of the document. Also, in the case of falsification by alteration, an imitation of the writing is necessary. In order for the act to constitute a material element of this crime, it is necessary to satisfy the essential requirement that the forged document be used by the perpetrator or be entrusted by him to another person for use. The requirement is not fulfilled if the false document was not entrusted by the author to the one who uses it, but was lost and found or stolen by him.

Unlike tampering with official documents which is committed by simply falsifying the document, regardless of its use, false deeds under private signature is not an offense unless the false document is used by the person who forged it or is entrusted by him to another person to be used. Therefore, if the perpetrator of the forgery himself uses the forged private signature document, he cannot be charged with the crime of use of false in competition with the crime of false deeds under private signature, but only the latter offense.

The subjective element consists of the intention that must characterize both the action of falsifying and that of using the false document or entrusting it for use to another person.

The attempt to falsify documents under private signature is incriminated. There is an attempt when the action of using the false document by the author or the action of entrusting it for use to another person, an action that failed.

A false deed under private signature is punishable by imprisonment from 6 months to 3 years or a fine.

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Social Volatility and Temporal Foci as Accelerators of Economic Trends

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ABSTRACT: Based on the COVID-19 economic fallout, the article outlines that the finance world has different temporal perceptions than the actual chronological time measurement in contrast to the real economy. In the real economy, concrete constraints create a more emotional and destructive reaction to the general information about COVID-19. Social online media plays a role in loading these two groups with different affects. Comparing the economic consequence of the endogenous crunch of the 2008 World Financial Recession with the external economic shock of the COVID-19 pandemic aids to retrieve crisis-specific recovery recommendations in the overall discussion. Understanding how the social compound forms economic outcomes promises to explain how market outcomes are developed in society and can be shaped by strategic communication with special attention to new media technologies.

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

Language and Crowd Control through Media

In society language is used to embody theories of reality. Linguists see the discourse inseparable from social and economic factors (Fowler et al. 1979). Ideas relevant to events such as employment and economic prosperity are conveyed in language messages of the media. Different social strata and groups but also different institutions and media have different varieties of language available to them. Linguistic variations reflect and actively express the structured social differences which give rise to inequality and economic dispersion. Beyond effect and reflex of social organization and process, language is part of the social process. George Orwell was the first to recognize connection between language, ideas and social structure in his novel *1984*. Language regulates the ideas and behaviors of social masses. Access to information determines the position of the individual in economic market competition. Language thereby become a determinant factor to classify and rank people to assert institutional or personal status in society.

Contemporary writings address political, institutional and social processes as underlying causes of crises, yet the role of information for the building of economic moods is hardly described. Emotional propensities may vary by certain societal groups. Time foci in communication may elicit certain action. Also, with social online media arising in the previous decade, speech and writing has become borderless and boundless, expressing the social circumstances in which language occurs. With the age of instant digital communication, unknown dangers of mass communication of economic correlates has arisen that implicitly builds expectations and hence bubbles to add to economic fluctuations in price.

Language shapes social processes. As part of social process, language influences groups. The information available to certain groups determines their state of mind. While linguists primarily describe the use of language to control the behavior of groups, this article focuses on the unintended and unforeseeable consequences of information on economic correlates. While there are writings on the role of information to control behavior, less is known about the unintended consequences of information in expectation building and hence bubble creation.

The paper aims at unveiling linguistic practices which implicitly become instruments to assert social inequality in economic terms. Linguistic structures are used to explore, systematize, transform and often create realities about prices and markets. The following part highlights the interdependence of market actors beyond prices in communication about the general economy, which are determined by communication creating expectations or contracting collective choice. The use of language as control will be shown to be limited by the collective reality of price and the irrationality of the crowd. Societal differences will be addressed that create systemic propensities to react with different emotions to the same information. In the process, groups form with differing behavior that opens a cliff of disparity between healthy and unhealthy reaction to the same economic information. In this sense language determines the social structure of inequality and the distribution of power within society. Society is organized upon a principle of unequal power determined by public communication as governments, newspapers and social public media control language. Using linguistic analysis as a way of uncovering the making of economic booms and busts will affect the general consciousness about language as an implicit economic correlate and basic of economic fluctuations.

Language reflects and perpetuates inequality. In online media accessible to everyone, not so much in the way how information is accessed. But information becomes relational and asymmetrical in that sense that there are differences of class or states of capital use. As the following part will draw on Karl Marx's distinction of capital into means of exchange and store of value, information about the economy implies a different impetus for the capitalist than the consuming labor. As the inherent relationship is a competitive a negotiation for power and the following article will interpret Marx in Bergson's (1910/2001) immanent critique tradition, the following paper will outline the different starting grounds of capital being an inequality dividing moment in society.

As language supplies the models and categories of thought, it not only shapes people's experience of the world but also people shape their world differently based on information. In this, capital becomes a dividing moment into winning or losing from crisis communication. The following article will thereby outline the economic uncertainty that stems from fluctuations of discourse in the media. The linguistic equivocation mirrors the tension of the real situation in which people find themselves.

The notions of time and value will be discussed in the dividing element of social classes. The producing class, the industrial-capitalists, will be distinct from the laboring class, exemplified by workers. Their different historical starting grounds on time prospects in absorbing market information will become the basis of an argument for a class division in those, who can absorb long-term liquidity constraints better than those who spend for consumption and are therefore more constraint by economic crises. What is new to this argument will be that the emotional arousal over information on economic crises differs between these groups. While producing individuals can wait out liquidity crunches with ease of mind, the laboring consumer will be stressed out and forced to make more unwise decisions.

Behavioral aspects include that the rational industrial-capitalist can make system 1 decisions around crises, whereas the emotional consumer-worker is more likely to make unwise choices given a different emotional arousal of information about external shocks and economic crises. In bringing Marx's concepts of abstract and concrete labor time in relation with affect theory's concern with duration or indexical time as the flow of time from past to present and future; the overlapping time concepts of Bergson (1910/2001), who uses Deleuze's cinematographic concepts will prepare for a deeper look into Sian Ngai's interpretation of Moishe Postone's work on labor, time and social domination in the bridge to contemporary affect theory (Lee 2020).

With governments and media moguls having lost the ultimate power of censorship in the digital age, online media has portrayed as powerful mode of language and thought. Mass communication has leveraged as a tool to unconsciously drive the economic engine.

Unprecedentedly described implicit economic fluctuations build by media representations currently control society's relationship to material reality (Fowler et al. 1979).

Mass media communication can create mass movements based on building mass expectations. The communication is thereby re-packaged at the recipient, whose experience with others influence the way information is processed and guides actions. In this light freedom of speech and access to information appear as for holding unforeseen economic outcomes. The paper thereby outlines the implicit reaction of the knowledge of economic correlates. Unveiling the economic machinery of language as driver of economic ups and downs will aid deriving communication recommendations to ease economic fluctuations. Journalists will be enabled to understand the economic ethos of words and the moral imperative of their economic coverage. Following the goal to gain certainty about the economic situation, information will also be portrayed as a potential to stabilize or destabilize the economy and divide society.

Historical Foundations

Historically, Adam Smith and David Ricardo describe capital as the driver of production (Meister, forthcoming). Liquidity is created by financial markets as a value of economic output that helps the real economy with credit in order to pursue their endeavors in employing workers and creating purchasing power. The real economy foundations are financed via financial markets providing loans to fund grand endeavors in the future (Buera & Shin 2011; Rajan & Zingales 1998). Capital accumulation affects capitalism's continued ability to forward-fund the growth of aggregate demand for wage goods (Meister, forthcoming). In most recent decades, the finance sector has turned for serving social-psychological motives of socially conscientious investors and activists (Puaschunder 2018a, b).

Finance and production have always been features of capitalism (Meister, forthcoming). Capitalist production is financed by producers with no initial ownership of the means of production and no initial control over their labor force (Meister, forthcoming). This historical impact of finance on real economy production has changed over time. While the financial sector now accounts for just under 9 percent of total GDP in the United States, it comprises over 30 percent of all corporate profits; before 2009, this figure exceeded 40 percent (Lee 2020). The interaction of asset markets and economic output in the era of capitalism set the standards for heightened levels of inequality we live in today (Meister, forthcoming). Thomas Piketty's *Capital in the Twenty-First Century* (2014) outlines that asset values have compounded faster than production has grown (Meister, forthcoming). Piketty's (2014) impressive historical data outlines that basic income distribution between those who own capital and those who need to earn capital for day-to-day living expenses has been widening. Income inequality arises from the ownership of capital. Piketty (2014) agrees with Marx that access to money or credit (postponed need for money) is not part of what is being bought or sold in the real economy (Meister, forthcoming). In the Marxian tradition, capitalist exploit workers indirectly as their consumption must always be funded by paying cash in advance (Meister, forthcoming).

Particular is also the role money plays in these two worlds. The different uses of money create different classes in society. The finance world monetary economy differs from the real exchange economy as the finance sector has the benefit of the liquidity of wealth and thus domination via a wealth rent. But this happens without any market production of the real economy. Financial forms of capital appreciation does not nurture society per se by enhancing social relations in material wealth that enriches socially or a valorization of commodities that is only possible in the real economy (Meister, forthcoming).

Income inequality stretches deep in the time prospect the differing groups of the finance community and the real economy have during crises (The Levy Economics Institute of Bard College, 2020). Differing emotionality arises from economic crisis communication in the news

if wealth exists or does not. The finance world has a time swop advantage to maintain existence and sustain in a separation between time of delivery, consumption and time of payment. Finance options introduce a separation of time for market prices and volatility (Meister, forthcoming). In diversification financial market actors can wipe out the differences between positive and negative market movements and hence catalyze volatility. With the creation of options, which were illegal up until 1973 as for being considered as gambling, the finance world can benefit from time value. In stock options, the finance world can index winning industries and turn away losing market segments.

The finance world enjoys the value of optionality in purely financial gains (Meister, forthcoming). Liquidity problems arise for the real economy during economic upheaval, which are titled as realization problems in Marx in the realization of ordinary living expenses (Meister, forthcoming). According to Marx, money received in wages in the real economy is spent as soon as received in commodities that do not function as value-preserving assets or investments (Meister, forthcoming). Money arises for transactional purposes in a confidence of finance in real economy activity. Options markets allow the financial system to anticipate and bet and benefit from future threats to liquidity from turbulence (Meister, forthcoming). The heightened volatility resulting from widely publicized threats to basic needs can be monetized.

Volatility can be positive and negative for the finance market to profit from, whereas volatility can only be negative in the real economy. This ability of financial markets to capitalize on threats through creating and pricing options is a source of financial resilience today but it also reveals the real economy's political vulnerability (Meister, forthcoming). Take crops – in the finance sector shorting commodity prices offers financial gain perspectives, in the real economy any deviation from expected harvest goals is hurtful. The finance sector has created this risk-free, emotionless vacuum in comparison to an emotionally-laden, liquidity-constraint real economy. Volatility added to markets thus implies positive opportunities to gain for the finance world, but negative frictions in the real economy (Meister, forthcoming). That is the hidden inequality underneath the financial cushion skin.

Financial liquidity as such comes with a political and societal price (Meister, forthcoming). Liquidity is manufactured by paying someone a premium to assume the risk of temporal illiquidity (Meister, forthcoming). Guaranteeing against systemic illiquidity and supporting the value of asset markets in the real economy activity was originally the main purpose of the finance world. The state connected these two world by the exclusive power to issue currency and finance long-term by the use of governmental bonds and redemption via inflation (Meister, forthcoming). The institutional support allocates tax revenues towards the financialization of infrastructure essential for real economy activities. This government's borrowing power to support financial markets liquidity is political creating additional social noise (Meister, forthcoming). Piketty (2014) concludes that government policies – such as redistributive income taxes, capital levies, and monetary control – can lower the rate of return on capital as the ratio of wealth to output rises.

Liquidity in the finance sector has become the requirement of capital accumulation and imbues ultimate vulnerability to society in the obligation of the real economy to bail out failing financial markets and bear the costs of speculative bubbles bursting. In a collateral realization problem, the finance world is considered too big to fail and can benefit from value-at-risk, while being able to count on bail-outs if failing. The 2008/09 world financial recession aftermath was a vivid sign of bailouts being paid by an inflation-disowned general public.

The price of liquidity is set by capital markets (Meister, forthcoming). Policies may peg the appreciation of capital markets to growth in the real economy. Meister (forthcoming) proposes to fix the problem of inflation by pegging wage rates to changes in the nominal price levels of the goods that wages can buy. The contract between capital and labor in Marx is entered voluntarily by the labor's own interest and can be left by the labor. But the current

financial market and real world divide is an implicit monetary peg that was either chosen nor can be left.

Liquidity creation neither derives from production nor corresponds to asset appreciation possible in the real economy markets. Meister (forthcoming) builds on Marx's critique of capital appreciation that does not come from expanded economic output in the real economy and thus vanishes societal and cultural value. Capital accumulation stems from economic output but does not lead it or imbue it with value. The finance world thus lives from real economy productivity but erodes the social and cultural foundation economic growth builds on. In case if asset markets grow faster than the industrialized economies that underlie them, the democratic, cultural, artistic and social value erodes. A drive of capital in the finance sphere thereby eats from the financial potential of the real sector.

Over the course of industrialization, money's operating system permeated the world with expanding production cycles of capital in the private accumulation enabled by the institution of capital's unequal exchange with labor by means of the wage and of private property's systems of accounts (Beller, forthcoming). Under capitalist expansion and its highly varied methods of accounting, qualities became increasingly treated quantitatively and subjugated by the calculus of profit (Beller, forthcoming). The abstraction of money was perfected in finance capital in which the finance world derives wealth from pure speculation and risk management detached from labor and labor time (Beller, forthcoming). Abstraction in capitalism requires a re-formalization in material processes. Rendering money into commodities will make capital fungible for society (Beller, forthcoming). The finance world turns money into finance and risk into value. The derivative society in the finance world can benefit from risk. With shorting, financial executives actually turn a downturn into financial gains. The finance sector benefits from the fungibility of money, which may be called fluid putty money for financial market transactions and collaterals convertible to money. The real economy is more struck with clay parts of economic growth that are dependent on favorable market conditions.

As for social class differences, the real economy has a different more emotionally-laden time perception than any chronological clock could ever provide (Martin 2019). Time on the clock is different than the time in the mind since experiences are created in the head (Martin 2019). Memory becomes the guide in interpreting information and absorbing time differently as opportunity or burden depending on the financial world and the real economy. The global transformation of time occurred during the era of neoliberal globalization, in which the finance sector became more and more detached from society (Martin 2019). Financial time is measurable and monetizable, ordered and linear (Martin 2019).

Fear of time becomes an issue in the real economy (Martin 2019); while the finance world can benefit from arbitrage and hedging to turn negative market performance to their favor during a violent disruption. The finance world ends with self-actualization and opportunity, while the real economy is constraint in a reality they want to escape from (Maslow 1943). While the real economy has a stressful time consciousness that is easier to be explained in finance terms that lived (Martin 2019). The finance world is therefore in direct contrast to the real economy. The finance sector enjoys a physical time, while the real economy suffers from a psychological time perception (Martin 2019).

Problematic appears that the finance world only focusing on preserving and expanding the store of capital that already exists without adding social value to it. In a direct mediation of value redistribution or mutual bail out obligation forms could bring back the finance industry to serve the real economy (Postone 1993; Meister, forthcoming). As a service sector the finance sector could transfer economic value for the sake of shared prosperity (Higgins & Reddy 2020). Facing an obligation to contribute to society, finance markets can play a leading role to finance higher social goals and long-term endeavors – for instance in the eye of climate change and global responsible intergenerational leadership quests (Puaschunder 2016a, b, c).

Social Volatility

The relation of information and emotionality forms the basis of social volatility, which differs within society. Actual volatility is a measure of the amount of randomness in a financial quantity of any point in time (Wilmott in Lee, forthcoming). Volatility stems from the notion of fleeting, transitory movements in markets and is as much an indicator of financial well-being as stock market performance (Lee, forthcoming). High volatility is associated with unpredictable market changes and an overall market uncertainty (Lee 2020). Quantitative volatility estimations derive from models building on historical data opposed to the indexical or real-time trading in the wake of events occurring, in which time flows from the future through the present into the past (Lee 2020). The market's estimations of the future volatility of the underlying stock is featured as implied volatility (Lee 2020). Emil Durkheim speaks about collective affective components in collective effervescence as collective resonance (Lee 2020). Social volatility adds a social dimension to a rational account.

Lee (forthcoming) distinguishes in finance between instantaneous randomness and historical volatility based on two notions of time: The homogenous time of classical physics in which all events take place (presupposed by historical volatility) and the indexical time (as the instantaneous time of trading), in which the relations between events generate a sense of past, present and future. While standard neoclassical theory defines volatility as a “standard deviation of stock prices” or “statistical dispersion of returns for a given security or market index,” also political, social and cultural influence shape volatility (Lee, forthcoming).

The qualitative influence on volatility works through social affect and collective moods of emotional market actors, who react to large-scale information flows. The popular imagination and expectation thereby creates a buzz or steer that drives or crunches market actors' behavior. Departing from notions that trading is scientific (Friedman in Lee, forthcoming), social volatility arises from collective interpretations of the signs of times.

Ample evidence and data exists on the quantitative nature and outcomes of volatility. Yet to this day there is no solid theory or empirical investigation of social volatility – the qualitative influences on volatility, such as affects, emotions and collective moods that shape individual's reactions to information, news and historical events. Intensity and nature of emotionality may differ between those invested in financial markets and those who derive their income from labor. Extent and intensity of sensations creates this gap between capital and labor as experienced in high market profits for financial gains and liquidity constraints experienced in the real economy during crises. This kind of turnover capital in the finance world, Marxist scholars call ‘fictitious capital’ (Harvey 1990). The ones engaged primarily in capital gains have the luxury of optionality as the time and right to choose (Lee, forthcoming). They are the ones who can wait out and suspect the implied volatility of underlying market options as better estimators of future market performance.

Lee (forthcoming) advocates for reconciling the quantitative and qualitative dimensions of volatility. Integrating social notions that cause volatility will aid in embracing the instantaneous levels of social volatility formation. Henri Bergson (1910/2001) brings together volatility and indexical time in the notion of duration (Lee, forthcoming). In Bergson's (1910/2001) notion, initial volatility is created by many vibrations linked together via discourse of many unloading in emotions and motions. The present gets tainted by the past and the imagination of the future. In the Bergson (1910/2001) duration, the flow of time into past, present and future becomes a qualitative multiplicity of emotional moments that create collective actions (Bergson, 1910/2001; Lee, forthcoming). Emotions, desires and passions play a role in breaking waves of economic trends. Different emotionality propensities in the eye of market communication about the overall economic state grounded in differing starting conditions within different social groups, are yet to be scrutinized and depicted scientifically.

Affect Theory

The importance of affect for market reactions and finance outcomes is first described in John Maynard Keynes' notion of 'animal spirits,' which later on gets picked up by George Akerlof and Robert Shiller (2009). Lee (forthcoming) accounts the work of Giles Deleuze, Bergson and Spinoza as the most important philosophical influences on the development of contemporary affect theory, in its "ability to affect and be affected" (Lee, forthcoming; Massumi in Deleuze & Guattari, 1987: xvi; Spinoza). Massumi's *The Autonomy of Affect* (1995) explicitly used Spinoza, Bergson, and Deleuze to create the theoretical parameters for affect theory and connection to the finance world (Lee, forthcoming). Related components derived from the belief-desire model and moral philosophy notions as well as decision making under uncertainty behavioral economics (Lee, forthcoming).

The belief-desire model and decision-making under uncertainty became the dominant framework for subjectivity in quantitative finance. Affects in economic markets were first addressed in Keynes' 'animal spirits' asking why people disobeyed expected utility theory, which opened the way for the development of behavioral economics by Amos Tversky and Daniel Kahneman (1979; Lee, forthcoming). As a next step, we need to translate expected utility theory into an empirical verifiable psychological model of beliefs and desires.

Affect theory entered finance in the wake of instability concerns of the 2008/09 world financial recession and Thomas Piketty's (2014) concern over growing wealth inequality (Lee, forthcoming). Today's affect theory in finance proponents are Laura Berlant (2011) and Sian Ngai's *Gimmick* (2020). Although we have expanded our repertoire of quantitative tools to measure and manage risk, uncertainty and volatility, to this day the qualitative side of volatility is left rather unexplored (Lee, forthcoming). In the behavioral economics research, experiments and fieldwork discovered that individuals systemically do not behave rational as for being tainted by heuristics, framing and affective biases. Belief-desire models were introduced in Kahneman's (2011) flow model that attributed affect as influence on decision making in system 1 (as unconsciously biased) and 2 (as rational decision-making) thinking domains. Integrating System 1 and System 2 theories into social volatility includes time prospects and money use. Societal groups form in which holders of the means of production, industrialists-capitalists, have ample long-term views and long breath in finance as for generating money from money in the finance world. They are the ones prone to system 2 thinking capacity during times of economic upheaval. The laborer-workers are consumers, who are bound to work for a salary in order to fulfill their day-to-day needs and wants. So the distinguishing factors are the turnover time and need of capital as well as the obligation to pay for consumption goods. Laborer-workers are the ones stuck in system 1 thinking with the crisis hits as they react emotional given their constraint budgets and lack of degrees of freedom. Industrialists-capitalists enjoy a longer time horizon and continuous degrees of freedom to spend. The problem of a gap between the finance world and the real economy highlights this distinction of classes and the problem of identities in markets that are either emotionless or filled with affect leading to two classes of behavioral outcomes that will bleed into wealth and poverty (UNICEF Press Release September 2020).

Social volatility brings a subjective element to probability estimations of events and their occurrences. Weighing on one's beliefs and desires in the reflection of information provided about markets shapes individuals' intentions and actions.

The anthropologist Caitlin Zaloom describes the riding on the ebbs and flows of socially shared affects constructing economic up and down swings as flow experience (Lee, forthcoming). Instincts of traders and market actor's engagement in capital for investment, not consumption, determines the better understanding and profiting from natural rhythms of financial fluctuation (Lee, forthcoming; Zaloom 2006). This is the nature of being a dynamic trader, who outperforms the market in his understanding of collective moods bleeding into collective action influencing market outcomes (Ayache 2008; Lee, forthcoming). The ebbs and

flows of affective intensities form decision-making qualities, which differ between societal classes. Surfing volatility thereby becomes a skill of those using money to make money by being in the zone (Csikszentmihalyi, 1990; Lee, forthcoming; Zaloom, 2006). Flow creates an affectual bridge between System 1 and 2 (Lee, forthcoming). Csikszentmihalyi (1990) suggests that being in the zone occurs when there is an optimal alignment of goals and abilities and people are absorbed by a task (Lee, forthcoming). This prepares the argument that flow underlines the distinguishing factor between those who can afford long-term considerations in markets whereas others become emotional in their decision making under constraints.

The belief-desire-intention model becomes the framework to analyze action and communication (Lee, forthcoming). Studying emotional impacts on finance aids in explaining the market powers of herd behavior, panic selling and irrational exuberance around expectations creating bubbles. Bergson and Deleuze's insights that affect changes intensity and quality of judgment develop the notion that affective choices may lead to suboptimal outcomes. In that affect becomes the basis for social volatility that does not follow the discrete-time punctuation of decision-making. Those whose time perspective can be longer due to the engagement in financial markets, benefit from a wave-like flow of indexicalized continuous time, which Henri Bergson (1910/2001) called duration (Lee, forthcoming). Flow thereby becomes the psychological modulation of duration (Lee, forthcoming). The flow of affect adds a qualitative dimension to volatility, which is missing in the belief-desire model of decision-making under uncertainty (Lee, forthcoming). Flow thereby also adds to behavioral economics, which is based on the study and description of heuristics but offers – to this day – little on the emotional sensibilities of decision-making and the subsequent economic outcomes (Lee, forthcoming). Social volatility thereby has a direct effect on culture and economic outcomes.

In the connection of time and modality to volatility time plays a role in the social division as capitalist-industrialists have more long-term possibilities than consumption-allocation constraint consumer-laborers. Modality attributes the qualitative dimensions of affect and volatility.

Bergson's (1910/2001) duration is the indexical flow of time between present, past and future, which physics does not distinguish but behavioral economics does (Lee, forthcoming). Emanuel Derman (2002, 2016) proposes trading as an event with indexical time and the traders enjoying flow highs in surfing volatility waves (Lee, forthcoming). Volatility is thereby grounded in a flow model driven by affect that creates a differing sense of time.

Collective moods constituting social volatility is a sign of our globalization time, in which reflexive communication on social media tools has created socio-economic pressures of globalization (Harvey 1990; Lee, forthcoming). To this day, there is no clear account of the mechanisms of language online creating collective moods and affects of the individual. Unanswered are questions about the socio-psychological motives in the public discourse online forming emotions and if the internet as platform without any official governmental censorship creates new levels of complexity. In the public sphere we can already say that the internet offers unprecedented opportunities to blast information instantaneously and truly globally. Lee (forthcoming) believes that there seem to be new forms of volatility being introduced by digital technologies in the contemporary culture and politics of finance. The internet may have informativeness decreasing in light of big data. For the individual consumer of the internet, problems of hyper-hyperbolic discounting arise. Internet users face a constant predicament between dignity in privacy and utility from information sharing. Individual information sharers cannot foresee what their shared information will have an impact for them in the future. The information is shared tranche by tranche and with entities that may hold more information over time and certainly over big crowds. In all these features, information has become a highly volatile good in the digital age. Yet to this day, we do not have a theory on how information leads to emotions creating social volatility with direct market outcomes. Although efficient market theory considers the markets as an information processor, we still have no behavioral

account on how the information bleeds into emotions curbing or accelerating certain choices of certain market actors. Information processing in market has therefore become a highly recursive act in the collective building up of emotions that then fuel crises or exuberance. Media and internet technologies have also increased the “turnover” time of information so the fractal butterfly effects become increasingly commonplace; the overflow of “availability cascades” become the norm rather than the exception (Lee, forthcoming).

As Lee (forthcoming) outlines, digital technologies make possible the representation and fast-paced, widespread transmission of information about volatility. But their representation and transmission contribute to the randomness that they represent and transmit and this is all being constantly updated in real-time. The traders notice implied volatilities and can use it for their favor in their long-term vision. This kind of novel social volatility but also the class divide in those who can handle social volatility more relaxed account for an increasing phenomenon as digital technologies unfold around the globe exponentially and socially rising trend of our times.

Affect is a reaction to environmental stimuli beyond rational calculus (Berlant 2011). Berlant (2011) notices optimism becomes cruel in capitalism when it ignites a sense of possibility that actually makes it impossible to attain the expansive transformation for which a person is striving (Berlant 2011). The fantasies of a materializing education, job security and a stable career for upward mobility are built within the framework of cruel optimism (Berlant 2011). People are believed to be attached to conventional good-life fantasies within institutional and capitalist frames, which turn in reality to capitalist arenas of instability and fragility (Berlant, 2011).

The Gimmick gives a tableaux of illusions that does not add up to reality. Gimmicks include the camouflage of unequal expansion of capitalist gains and economic opportunities by mass media, literature, television, film, video and art up to social media online that procreates cultures of unhappy aspirations. Good life fantasies and lifestyle aspirations in a low interest rate climate create prisons of debt for people who spend their whole life paying off past consumption. This cruelty in the optimism created by capitalism leads to so-called death of despair (Berlant 2011; Case & Deaton 2020).

With a reality that presents itself in human via affect that senses trends and implicitly guides our behavior, affect contours any incident coming down on society. Affect is shared in the historical present and therefore becomes a profound force responsible for collective economic crises. Affect is also present in the adjudication of survival strategies but also a driver in the pursuit of a better life. While economic crises, however are absolved by awareness and relatively less emotional content, the hypervigilance and tension of the real economy is caused by being bound to real world constraints that creates an unequal emotional outburst. Different affects are related to different patterns of reflexes and behaviors.

Unequal urgencies and senses of emergency lead to unequally distributed sensibilities, which evoke differing gestures in the economy that constitute common norms of social classes. The economic situation is therefore a genre of social time and practice. The underlying relation of persons and worlds is sensed based on the group a person belongs to that constitutes certain behavior. The same situation creates either opportunities or tragedies of despair. The same world-shifting events may for the finance world create gain perspectives in recognizing certain collective mood behaviors economic potential, while the same occurrence imposes a world-shifting threat to the real economy.

The distribution in these categories of reception highly depends on the geopolitical and biopolitical locations as well as the socio-economic starting ground of the wage generation. Economic crises are extended in parts of society turning into an ongoing condition and intensified situation with extensive threats to survival (Berlant 2011). The distinction into social classes of crises is structural is made via affect – it is emotional excitement caused by crisis and emotionless rational response in others. The finance sector can remain mentally distanced and can economically flourish in times of crises due to hedging potential, while the real economy

suffers from closeness of the world and real skin in the game in their everyday life. The real economy may face a loss of confidence, while the finance world experiences a confidence boost due to financial friction hedging potential. These emotions and mood build in large mass cultures via new technologies that are constantly and reflexively scanned for news and information that gets added and changed on a periodic basis. The media proliferates world realities and gimmicks about the current state of the world in our common modes of living. Gilles Deleuze writes that affects act in the nervous system not of persons but of worlds. Affective scenarios are emphasized in social discourses within diverse social bubbles that reciprocate emotions and feelings about the political and economic norms. Diverse social contexts echo the collective sensual activity in light of events that get transmitted and re-emphasized in social media. The inequalities of contemporary capitalism lie in the emotional hyperventilation of the real economy and the rational mastery of the finance world that gets exacerbated in the dynamic relations of social crowds and clans. While the finance world is detached from real world problems, the real economy suffers from a collective trauma in the face of threats and catastrophes in their everyday precarious lives. The finance world stays detached from emotionality given the possibility to hedge against risks, spread risks and diversify more fungible assets that are not needed to cover day-to-day expenses. Brian Massumi (2018) represents the nervous system as so autonomous that affective acts cannot be intended, in contrast to affective facts that institutional entities, such as the finance sector professionals, can manipulate to foreclose future capacities (Berlant 2011). These are what Deleuze (Lee 2020) calls the affective components of historical consciousness in the face of subjectivity. The real economy seems to suffer from loss of confidence with personal affective states in times of crises given their threats to well-being, while the finance world has a powerful anti-affective force of crisis gain potential that invigorates their desires. The affective reconstruction of the reality varies between the two worlds of finance and real economy of hope and loss during a crisis existing concurrently. Affective qualities taint the conditions of life and how decisions play out in the lived time. The affective moments saturate the corporeal and cognitive process that lead to different subjectivities of reality and guide different behaviors. A common historical moment thereby appears as diverse visceral moment in assessing the diverse opportunities and risk prospects of different groups. A shared atmosphere of a cluster of interest determines a pattern of approaching and navigating in markets. The different patterns of affective responses thereby leverage into the structural divide in external shock struck economies (Nikiforos 2020). The convergence between the affective response and economic differences creates zones of inequality in society (Nassif-Pires, de Lima Xavier, Masterson, Nikiforos & Rios-Avila 2020).

Future research should conceptualize to elucidate the affectivity of events with a special emphasis on the two worlds. A formal rendition of affective experiences would thereby provide different modes of responses that are specific to the recipient groups. Future research may clarify the affect stages of different crises, meritocracy and upward mobility but also anxieties around precarity and financial gain prospects that shape and guide human behavior and certain groups at different stages in their lives. Social stratifications in different classes, like gender, race and nation should be pegged to characteristic affects and emotional qualities that are prevalent in order to outline the different shades of inequality prevailing in society. Linking the world of feelings to the worlds of money and real economy will aid in capturing how catastrophes bleed into ordinary life in emotions and guide consumption. All these insights will offer most novel ways how to find the right communication and socio-psychological means to avert crises.

Responsibility in the Post COVID-19 Era

The COVID-19 crisis turns out to be a crisis of the measurement of value (Gorz 2003). The increasingly affective quality of language online turns the crisis communication into a hidden inequality accelerator. Affective differences in the perception of COVID-19 external shock

communication underlines the immaterial wealth of capital (Gorz 2003). Capital leverages as a shared skill that materializes in the everyday life decisions and grants peace of mind. But this feature in capital leads to a reduction of emotions and real economy experiences. The financial market hegemony therefore capitalizes on the real economy by creating security in making money from money and the exchange of non-profitable industries emotionless. People's life choice is between the artificial head or the pounding heart.

The COVID-19 pandemic created winners and losers as well as the deep gap between strongly positive financial market developments and the negative performance of the real economy induced by lockdowns. Exposing the real economy to a wave of private bankruptcies and liquidity bottlenecks, therefore calls on governments around the world to reboot financial markets to return to be a service industry – to serve the real economy. Government bailout packages are likely to be financed over the long term by the historically-lowest, never-so-long-low key interest rates. Low key interest rates will continue to allow the capital market to flourish. But this is based on the cost of a weakening of the potential of the interest rate as a monetary policy tool, which the economist John Maynard Keynes (1936/2003) already described as a “liquidity trap.” The low interest rate policy brings along long-term external financing of past ideas, which impairs the flexibility of investors to finance future-oriented innovations and may hold back societal progress. Low interest rates on savings accounts in the real economy keep people trapped in the debt financing of past dreams (Forbes, 2020). Household debt traps are causing massive psychosocial burdens, a so-called ‘deaths of despair’ trend is already noticed in the US for mid-career death spikes induced by alcoholism, drug use and suicide (Case & Deaton 2020). Unequal world problems include a diversified access to health, well-being and prevention in society.

Poor people are less likely to be able to afford and be cognizant about how to lead a healthy life. Marketing Gimmicks lure them into constant needs for consumption with a lacking budget. Exploitation creates an ever-existing appetite for food and self-medication that if cheap in light of personal consumer debt and uninformed leads to slow death of despair. People with less financial and salutogenic expertise may harm themselves over time with hedonistic and compulsive behavior that yet works towards capitalistic consumption goals. The obesity epidemic burdens the working classes of contemporary capitalist countries, like the United States and the United Kingdom and all countries that participate in the global processed-food regime (Berlant 2011).

In a convergence of communication, information and financialization as computation, the virtual online machinery is dominating value creation today (Beller, forthcoming). Representations of today's language and online communication determine responses to the social volatility rendered the more precarious real economy. Affect is the currency of the real economy, while financialization strategies that of the finance sector, which exacerbates the prevalent inequality schemes in society (Lee & Martin 2016). Money becomes the real abstraction (Beller, forthcoming). Ironic in finance volatility and the financialization of everyday life have become a major source of value in the creation for synthetic finance (Beller, forthcoming). Computation is the extension, development and formalization of the calculus of exchange value enacted in the finance sector (Beller, forthcoming). Information has become the basis of a derivative contract on any phenomenon. Its emergence is one with the calculus of probability and thus of risk. Information becomes a derivative on reality whose importance comes to exceed that of reality, at least for those bound by the materiality of information's risk profiles.

In the digital age, information becomes a technique that injects a socio-historically mediated system of valuation in society. Prior social narratives and ontologies slice society for social class differentiation. Financial income streams are meant to be transferred to social currencies. Information becomes social differentiation and the intake of information in heuristic. Computation has played a role in the financialization of the economy. Information becomes

meshed with human inputs fueled on toxic emotions to become hedging capital. The finance sector benefitted from the financialization of daily life in the finance society of risk profiteers. But how to enact this convertibility and unleash a liquidity in the real economy is yet to be determined.

With the planned post-COVID-19 bailouts representing more than 60 percent of the money ever issued in the history of the US, should the finance world be obliged to return to the overall human well-being and promote the pursuit of humanness in arts, culture and societal growth? Can the finance sector lacking emotions return to the real economy via redistribution for also breeding creativity, soothing their hurtful anxieties and give to the core of humanness? Can we speak about a novel exploitation of real world livelihood and emotions by the finance world? Is there a moral sense or honor to put the finance world into service for the sake of human feelings? This may be a redistribution matter of ethics, justice and trust.

Staying in capitalism to change it, transformations and changes should be afar from pure quantitative value maximization and simple redistribution of financial assets. Qualitative values appear more uniquely precious than international prices. Local pockets and environments enrichen our lives deeper than international prices. It is on us to trying to figure out these and put them in synchrony with each other but expand from the local.

This is the post-COVID-19 Renaissance and Reformation of Immaterial capital as in the end, life is about reality. The real present in the real conditions of existence. If we stop the social, we forget who we are.

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Some Considerations Regarding Reaching an Agreement for the Admission of Guilt

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ABSTRACT: The agreement for the admission of guilt can be defined as an understanding which may be completed and concluded in the phase of penal investigation, during an ongoing penal procedure, between the prosecutor and the defendant under investigation, by which the latter agrees to recognize the entire content of evidential material as proof she is guilty of a certain accusation brought against her, in exchange for obtaining certain concessions or milder treatment by the prosecution. This means, among other things, that the defendant shall plead guilty to a lesser accusation or to one or more of the accusations brought against her, in exchange for the prosecution waiving the penal consequences of the commission of other infractions, or admitting guilt to an infraction in exchange for a less severe penalty.

KEYWORDS: agreement for the admission of guilt, prosecutor, defendant, rights and obligations, trial phase, special procedure

Upon the entry into force of the new Code of Penal Procedure, the Romanian legislative came up with a series of modifications. These new regulations were inspired by the legislations of several European and American jurisdictions, which were transposed into our legal system of penal procedures. Some of these changes raised discussions and resulted in controversy, since our legal system is based on a specific continental concept of law, according to which the judicial truth must be identical to the objective, factual truth, meaning that courts cannot retain anything but what actually happened. In our Code of Penal Procedure, finding the truth is stipulated as the basic rule, by article 5 para. (1), where it is provided that: *“Judicial authorities have the obligation to ensure, based on evidence, the finding of the truth regarding the facts and the circumstances of the case, as well as regarding the person of the suspect or the defendant.”* Therefore, the principle of the active role of the judge is implied [art. 3 para. (2) of the Code of Penal Procedure], that is, an absolutely necessary instrument for accomplishing the principle of finding the truth (Ghigheci 2012). The desire of the legislative in adopting these newly provided for regulations was that of updating our domestic legal system, to bring equilibrium within it, to increase the efficiency of the judiciary and the observance of principles.

One of the institutions of the new penal procedure, representing a novelty in our legal system is the agreement for the admission of guilt, which is an element of negotiated justice, and may be concluded only by fulfilling certain conditions provided for by art. 480 of the Code of Penal Procedure.

The agreement for the admission of guilt is a newly regulated institution in the Code of Penal Procedure, found in its Special Part, at Title IV, Chapter I “Special Procedures” (articles 478–488), which overwrite the general rules provided for by other legal norms and allow an agreement between the prosecutor and the defendant, by way of an understanding based on negotiation, with regards to the kind of penalty proposed, and the modality of its execution. Its purpose is to reduce the duration of the penal trial by a special and simplified procedure.

The institution of the agreement for the admission of guilt resulted in a number of advantages. Some of the more important ones are the decrease in the duration of finalizing the penal trial, the decrease of costs, a simplification of judicial activity and relieving the pressure on courts by solving certain cases that do not present a high degree of danger (Conferences on the New Code of Penal Procedure, 2015), minimalizing legal fees covered by the defendant,

observing the rights of the defendant (among which, regarding her right to a fair trial we hereby mention the jurisprudence of the European Court of Human Rights, where it has been established that the right to a fair trial guaranteed by art. 6 of the Convention, is not an absolute right, but one that the party can waive in a valid way).

There are various advantages to permitting by law the entering into an agreement for the admission of guilt. In an era in which the criminal phenomenon is ever more exacerbated, the state can concentrate its financial, material, and human resources on instrumenting cases that are indeed important. Defendants would not anymore be relegated to waiting for years on end in order to find out what the consequences of their deeds are. Also, would benefit from clemency, as a result of procedural attitudes.

Case *Blackledge vs. Allison*, 413 U.S. 63 (1977) highlighted some of the advantages of the agreement for the admission of guilt:

“Whatever might be the situation in an ideal world, the fact is that the guilty plea and the often concomitant plea bargain are important components of this country’s criminal justice system. Properly administered, they can benefit all concerned. The defendant avoids extended pretrial incarceration and the anxieties and uncertainties of a trial; he gains a speedy disposition of his case, the chance to acknowledge his guilt, and a prompt start in realizing whatever potential there may be for rehabilitation. Judges and prosecutors conserve vital and scarce resources. The public is protected from the risks posed by those charged with criminal offenses who are at large on bail while awaiting completion of criminal proceedings” (Pascu and Manea 2015).

We consider that prudence should be the attitude in receiving and implementing the agreement for the admission of guilt, since various advantages offered by this procedure, when regarded from a different angle, may constitute serious inconveniences which may upset the legal, social and economic order of the rule of law. For example, receiving milder penalties is undoubtedly an advantage for the defendant, yet what is the price paid by society for such a concession?

The traditional model of the penal trial is a laborious one: over-proceduralised in the context of the importance of the social values it is meant to defend, having a contradictory character in the context of which truth must be ascertained in a reasonably undoubtful manner; due to the large number of cases the judiciary has on its hands it commits valuable human resources (police, prosecutors, judges, attorneys, clerks, guards etc.) to fulfilling its purpose. In other continental systems, transactional elements in penal matters consist of regulated non-judicial procedures, by which the prosecution offers to the accused perpetrator of an offence, those penal investigations against her cease in exchange for the payment of a fine (Bosly and Vandermeersh 2005, 242). It should be stressed however, that, as this is an exception from under the principle of indisposability of the public prosecution, such transaction may take place only in expressly established cases provided for by law.

Beyond these reasons of a procedural and financial character, the law aims to provide new rights in favor of those accused of committing antisocial acts, respectively, the right to submit themselves to the rigor of the law within a short time, eliminating intervals of uncertainty between the moment of the start of the judicial procedures and their sentencing under the penal law. Beyond the various necessities which may be invoked in supporting this option of the Romanian legislative, a modernization of the Code of Penal Procedure was also necessary, by the addition of a new institution which already exists in most of the EU member states, and aiming to simplify the processing of criminal cases.

Another argument in support of the agreement for the admission of guilt is that a smaller number of persons are brought before the court, since without the option of concluding such an agreement, an important number of “weak” cases might be solved by being dismissed, or “thrown out” as is sometimes said in English legal terminology.

Courts may be exonerated from solving certain types of cases where there is no real debate, due to the abbreviated procedure permitted by the agreement.

Following the conclusion of this “transaction” between prosecutor and defendant, the latter would maintain their reputation. A penal trial in the public phase may be averted by seizing the court with the agreement for the admission of guilt, thus significantly reducing exposure of less pleasant aspects of the defendants’ personal lives; admission results in a faster solution and less mediatization of the case, as compared to the traditional criminal trial.

Avoidance of social stigmatization and reduction of legal fees covered by the defendant are also among the benefits provided by the institution of the agreement for the admission of guilt. The psychological element of the positive effect that the option of concluding such an agreement has upon the defendant’s consciousness, the knowledge of participating with an active role in the decision-making regarding the penalty, preserves in a way their dignity and impresses upon them a new impetus for the respect of the law and penal institutions.

The agreement for the recognition of guilt allows both parties to maintain positions of advantage, the defendant benefitting this way from a decrease of the duration of any penalty involving incarceration, or the amount of the fine, while the prosecutor, and society will not witness acquittals, this way the guilty are sentenced, while meeting the interests of those involved in the criminal trial.

By concluding an agreement for the admission of guilt, the defendant waves the right to trial in a “full” (Volonciu et al. 2018) judicial procedure and renounces a fairly large number of rights. On this consideration, defendants should take this step only when benefits are obtained. Also, they must understand very clearly the consequences of their decision.

The defendants should consider the eventual opportunity of concluding such an agreement, based on the evidence in the case file and:

- They must be minutely familiarized with the prosecutor’s version regarding the circumstances of the case, as well as with the version proposed by the defense,
- They must consider the existence, severity and amplitude of criminal antecedents as well as,
- The quantity, and especially quality of evidence in the file, both against them, and in their favor,
- They must know if the prosecutor is able to prove guilt. Often, only on the day of the trial will they find out that all witnesses will be present in court or are willing to provide testimony, as well as whether other evidence proving their guilt is actually present,
- They must know if they may invoke up legal arguments that might lead to the rejection of certain evidence.

Conclusions

Concluding an agreement for the admission of guilt helps to expedite the solution of a penal trial, meeting the fundamental principle of celerity, also representing a possibility for the offender to decrease the penalty disposed by the court.

We consider that this special procedure, introduced by the New Code of Penal Procedure is useful, when applied while respecting the procedural provisions and while maintaining the objectivity of the prosecutor, who has the option to admit or dismiss the conclusion of this agreement.

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Gender Influence Study on Communication Style

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ABSTRACT: The purpose of the article is to analyze the difference in communication style in men and women. The experimental group consists of 60 respondents (30 men and 30 women), aged between 20 and 30 years. The questionnaire on “Communication Style Analysis” contains 60 items with True / False dichotomous answers. The dependent variable of the study is the communication style and the independent variable is gender. The aim of the research is to determine the causal relationship between gender and communication style.

KEYWORDS: communication style, assertive communication style, passive communication style, aggressive communication style, non-assertive communication style

Introduction

“In the broadest sense, we speak of communication every time a system or a source influences another system, in this case a recipient, through alternative signals that can be transmitted through the channel that connects them” (Osgood 1987). The article “Gender differences in aggression as a function of challenge – A meta-analysis” (Bettencourt & Miller 1996) analyzes several experimental studies that highlight differences in behavior between the sexes in terms of aggression (Eagly & Steffen 1986 in Frody, Hyde 1984 and White 1983). Older studies tend to highlight the role of biology in human aggression (e.g., Maccoby & Jacklin 1974) as opposed to current ones that question the role of the biological (e.g., Adams 1992 in Bentos 1992).

Regardless of the role that biological factors play, theorists argue that gender and cultural norms are differentiators of aggression (e.g. Bandura 1973 in Berkowitz 1989).

Communication has the role of putting people in touch with each other, in the environment in which they evolve. In the communication process, through the content of the message, the aim is to achieve certain goals and convey meanings.

J.J. Van Cuilenburd, O. Scholten, G. W. Noomen define communication as “a process by which a transmitter transmits information to the receiver through a channel, in order to produce certain effects on the receiver”. In other words, each communication process has a specific structure represented by a certain type of relationship developed by the sender-message-receiver trinomial.

Effective and efficient communication depends largely on the way we communicate, ie the style of communication. Style is not an exclusive property of literary texts it is specific to any act of communication.

The style of communication refers to the set of particularities of manifestation, characteristic of a person, in the act of communication. Style designates:

- The specific ways of receiving /decoding the message;
- Personal ways of processing /interpreting messages;
- The specific ways of expressing the answer, the personal particularities of feedback.

All these derive from the uniqueness and individuality of the human being, being the expression of the human personality. The communication style is:

- An indicator of how a person structures their world of social relations;
- An indicator of the way information is processed and this information is transformed into behavioral facts, into practical, social, evaluative judgments.

The communication style is determined by three variables:

- The person's attitudes, as constant ways of relating it to social life, to peers and to oneself;

- Learned communication models - assertive, non-assertive, aggressive (with its passive-aggressive variant), manipulative;

- Temperament, as a type of nerve cell reactivity.

Four styles of communication are recognized:

- Non-assertive (passive running attitude)

- Aggressive (attacking attitude)

- Manipulator (attitude of manipulation, as a compensation for one's own weaknesses)

- Assertive (constructive attitude)

Objectives, hypotheses and variables

1. Objectives

The study aims to investigate the influence of independent variables (cause): gender and age, on the dependent variable (effect): communication style, highlighting whether there are significant differences determined by gender in terms of communication style.

2. Assumptions and variables

1. General research hypothesis (H1): There are significant differences between females and males, in terms of communication style;

2. Operational / working hypothesis of the research: Males have a preference for aggressive style, while females use, mainly, non-assertive style;

3. Null hypothesis (HO): There are no significant differences between females and males in terms of communication style.

Experimental design

1. Participants

To perform the experiment, we randomly selected two samples of 30 people: a sample of girls and a sample of boys. Both samples are made up of students from the Universities of Bucharest, aged between 20-30 years.

Before applying the questionnaire, the participants were informed about the experiment individually about the purpose of the study (making a research report), about the importance of sincerity in formulating the answers given and about how to answer (True / False).

2. Tools and Procedure

Instruments

To conduct the research we used the S.C. (Communication styles). The test is relevant for the 4 fundamental styles of communication (assertive, non-assertive, aggressive and manipulative). The results were processed with SPSS.

The experiment includes two main variables: the score obtained in the test (dependent variable) and the gender of the participants, this being the independent variable. Participants were randomly selected in the 20-30 age groups so that age did not act as a parasitic variable.

Procedure

Respondent samples were independent, with no control group. The tool used in data collection was a Communication Style Analysis Questionnaire, consisting of 60 items with dichotomous responses.

3. Database Structure

	Name	Type	Width	Decimals	Label	Values	Missing	Columns
1	gen	Numeric	8	2	genul respondentilor	{1,00, masc...	None	8
2	varsta	Numeric	8	2	varsta respondentului	None	None	8
3	profesie	Numeric	8	2	profesia respondentului	{1,00, stude...	None	8
4	nonasertiv	Numeric	8	2	scorul obtinut la stilul nonasertiv	{1,00, adeva...	None	8
5	agresiv	Numeric	8	2	scorul obtinut la stilul agresiv	{1,00, adeva...	None	8
6	manipulator	Numeric	8	2	scorul obtinut la stilul manipulator	{1,00, adeva...	None	8
7	asertiv	Numeric	8	2	scorul obtinut la stilul asertiv	{1,00, adeva...	None	8
8	rezultat	Numeric	8	2	interpretarea scorurilor	nasertiv ...	None	8

Figure 1. Database Structure

Results and interpretations

1. Descriptive statistics

		genul respondentilor	varsta respondentului	profesia respondentului	scorul obtinut la stilul nonasertiv	scorul obtinut la stilul agresiv	scorul obtinut la stilul manipulator	scorul obtinut la stilul asertiv	interpretarea scorurilor
N	Valid	60	60	60	60	60	60	60	60
	Missing	0	0	0	0	0	0	0	0
	Mean	1,5000	22,7333	1,2167	6,0500	6,0167	5,5667	11,1000	4,1333
	Std. Error of Mean	,06509	,42511	,07167	,38870	,42286	,31115	,29082	,13120
	Median	1,5000	21,0000	1,0000	6,0000	6,0000	5,0000	11,0000	4,0000
	Mode	1,00 ^a	20,00	1,00	4,00	8,00	5,00	11,00	4,00
	Std. Deviation	,50422	3,29286	,55515	3,01086	3,27544	2,41019	2,25268	1,01625
	Variance	,254	10,843	,308	9,065	10,729	5,809	5,075	1,033
	Skewness	,000	1,160	2,518	,559	,281	1,155	-,985	-,978
	Std. Error of Skewness	,309	,309	,309	,309	,309	,309	,309	,309
	Kurtosis	-2,070	,097	5,228	-,377	-,975	1,294	1,177	3,644
	Std. Error of Kurtosis	,608	,608	,608	,608	,608	,608	,608	,608
	Range	1,00	10,00	2,00	11,00	12,00	11,00	11,00	5,00
	Minimum	1,00	20,00	1,00	2,00	1,00	1,00	4,00	1,00
	Maximum	2,00	30,00	3,00	13,00	13,00	12,00	15,00	6,00
	Sum	90,00	1364,00	73,00	363,00	361,00	334,00	666,00	248,00

a. Multiple modes exist. The smallest value is shown

Figure 2. Descriptive statistics

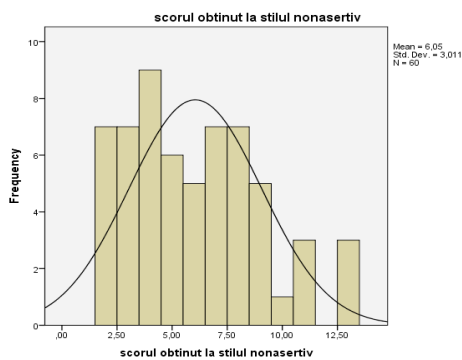


Figure 3. Score obtained at the non-assertive style

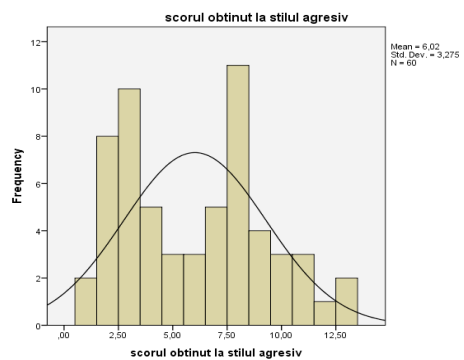


Figure 4. Score obtained at the aggressive style

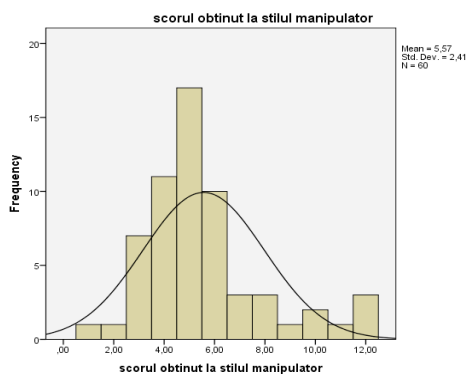


Figure 5. Score obtained at the manipulative style

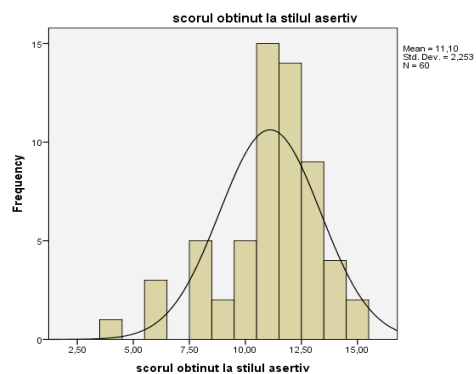


Figure 6. Score obtained at the assertive style

Correlations

			scorul obtinut la stilul nonasertiv	scorul obtinut la stilul agresiv	scorul obtinut la stilul manipulator	scorul obtinut la stilul asertiv	interpretarea scorurilor
Kendall's tau_b	scorul obtinut la stilul nonasertiv	Correlation Coefficient	1,000	,072	,366**	-,135	-,027
		Sig. (2-tailed)	.	,453	,000	,170	,801
		N	60	60	60	60	60
	scorul obtinut la stilul agresiv	Correlation Coefficient	,072	1,000	,150	,056	,325**
		Sig. (2-tailed)	,453	.	,128	,569	,002
N		60	60	60	60	60	
scorul obtinut la stilul manipulator	Correlation Coefficient	,366**	,150	1,000	-,116	,047	
	Sig. (2-tailed)	,000	,128	.	,249	,669	
	N	60	60	60	60	60	
scorul obtinut la stilul asertiv	Correlation Coefficient	-,135	,056	-,116	1,000	-,130	
	Sig. (2-tailed)	,170	,569	,249	.	,234	
	N	60	60	60	60	60	
interpretarea scorurilor	Correlation Coefficient	-,027	,325**	,047	-,130	1,000	
	Sig. (2-tailed)	,801	,002	,669	,234	.	
	N	60	60	60	60	60	
Spearman's rho	scorul obtinut la stilul nonasertiv	Correlation Coefficient	1,000	,101	,453**	-,184	-,023
		Sig. (2-tailed)	.	,444	,000	,159	,860
		N	60	60	60	60	60
	scorul obtinut la stilul agresiv	Correlation Coefficient	,101	1,000	,200	,063	,403**
		Sig. (2-tailed)	,444	.	,125	,633	,001
N		60	60	60	60	60	
scorul obtinut la stilul manipulator	Correlation Coefficient	,453**	,200	1,000	-,147	,066	
	Sig. (2-tailed)	,000	,125	.	,263	,615	
	N	60	60	60	60	60	
scorul obtinut la stilul asertiv	Correlation Coefficient	-,184	,063	-,147	1,000	-,138	
	Sig. (2-tailed)	,159	,633	,263	.	,292	
	N	60	60	60	60	60	
interpretarea scorurilor	Correlation Coefficient	-,023	,403**	,066	-,138	1,000	
	Sig. (2-tailed)	,860	,001	,615	,292	.	
	N	60	60	60	60	60	

** Correlation is significant at the 0.01 level (2-tailed).

Figure 7. Correlations

At the level of the group of participants, we noticed that the gender factor does not have a significant influence on the communication style (assertive, non-assertive, aggressive, and manipulative).

For the assertive style, the difference of the averages between feminine and masculine is not significant, $m_1 = 11.13$ and $m_2 = 11.07$. It follows that gender does not influence the style of communication in this case.

For the non-assertive style, the difference of the averages between feminine and masculine is small, quite insignificant, $m_1 = 5.70$ and $m_2 = 6.40$. In this case, too, gender does not have a determining role for the communication style, but it has some influence.

Group Statistics

	Genul respondentilor	N	Mean	Std. Deviation	Std. Error Mean
Scorul obtinut la stilul non-asertiv	Masculin	30	5,70	3,239	,591
	Feminin	30	6,40	2,774	,507

Independent Samples Test

		Levene's Test for Equality of Variances		t-test for Equality of Means							
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference		
Scorul obtinut la stilul non-asertiv	Equal variances assumed		,836	,364	-,899	58	,372	-,700	,779	Lower	Upper
	Equal variances not assumed				-,899	56,661	,372	-,700	,779	Lower	Upper
										Lower	Upper

Figure 8. Group Statistics. Independent Samples test (non-assertive style)

For the aggressive style, the difference of the averages between feminine and masculine can be considered significant, $m_1 = 6.70$ and $m_2 = 5.33$. Therefore, in this case we can say that gender influences the communication style, men being more aggressive than women. We mention that the result is influenced by the fact that only one person (male) was assigned the aggressive style as the predominant communication style.

Group Statistics					
	Genul respondentilor	N	Mean	Std. Deviation	Std. Error Mean
Scorul obtinut la stilul agresiv	Masculin	30	6,70	3,271	,597
	Feminin	30	5,33	3,188	,582

Independent Samples Test										
		Levene's Test for Equality of Variances		t-test for Equality of Means						
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
									Lower	Upper
Scorul obtinut la stilul agresiv	Equal variances assumed	,172	,680	1,639	58	,107	1,367	,834	-3,03	3,036
	Equal variances not assumed			1,639	57,961	,107	1,367	,834	-3,03	3,036

Figure 9. Group Statistics. Independent Samples test (aggressive style)

For the manipulative style, the difference of the averages between feminine and masculine is insignificant, $m_1 = 5.63$ and $m_2 = 5.50$. Even in this case, gender does not play a decisive role for the communication style.

Group Statistics					
	Genul respondentilor	N	Mean	Std. Deviation	Std. Error Mean
Scorul obtinut la stilul manipulator	Masculin	30	5,63	2,606	,476
	Feminin	30	5,50	2,240	,409

Independent Samples Test										
		Levene's Test for Equality of Variances		t-test for Equality of Means						
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
									Lower	Upper
Scorul obtinut la stilul manipulator	Equal variances assumed	,027	,871	,213	58	,832	,133	,627	-1,123	1,389
	Equal variances not assumed			,213	56,719	,832	,133	,627	-1,123	1,390

Figure 10. Group Statistics. Independent Samples test (manipulative style)

2. Checking the hypotheses

Hypothesis 1: The average level of non-assertive style is higher in women ($m = 6.4$) than in men ($m = 5.7$);

The non-assertive style is in direct correlation with the manipulative style;

Hypothesis 2: The average level of aggressive style is higher in men ($m = 6.7$) than in women ($m = 5.3$);

Aggressive style is in direct correlation with the total score;

Hypothesis 3: The average level for manipulative and assertive styles is approximately equal for men and women.

The assertive style is inversely correlated with the non-assertive style.

Conclusions

The results obtained from the statistical processing of the data show us that there are no significant differences between the way men and women communicate. We noticed differences in the aggressive style (the difference between male and female averages being the largest = 1.47). We could say that even in the case of the non-assertive style we notice some notable differences (the difference between the masculine and feminine averages being = 0.70. In the assertive and manipulative styles the differences are insignificant.

Thus, the null hypothesis (H_0) is rejected, the objective of our research being met and the research problem being validated. Given the noticeable differences, in some cases (in the case of aggressive and non-assertive style), we can still admit the research hypothesis that, communication styles differ by gender. It seems that the working hypothesis is also confirmed, as we expected to obtain higher scores in the aggressive style from men and higher scores in the non-assertive style from women, and this assumption proved to be correct.

We can propose, also on this research topic, to increase the number of subjects to see if the differences between the environments are more obvious, the results being statistically significant. At the same time, we could continue on the analysis of communication styles according to age categories, applied to the same subjects throughout their lives, in order to observe if the style changes with age.

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Heterodox Economic Cycles Theories

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ABSTRACT: Overall the following article innovatively paints a novel picture of the mass psychological underpinnings of business cycles based on information flows in order to recommend how certain communication strategies could counterweight and alleviate the building of disastrous financial market mass movements. Acknowledging that human beings are connected to and interact with each other in families, ties and larger networks of states, nations and intergovernmental institutions, studying the role of information in building socially-constructed economic correlates promises to explain how market outcomes are developed in the social compound and can be guided by media communication. Addressing problems of the neoclassical assumption of perfect information markets through the lens of 'real competition,' the following paper will specifically unravel how contemporary media communication produces certain types of price expectations that form consumption patterns leading to collectively-shared economic outcomes. An introduction to the history of economic cycles will lead to the analysis of the role of information in creating economic booms and busts in the age of globalization. Applying emergent risk theory onto economic fluctuations will serve as an innovative way to explain how and what information represented in the media creates economic ups and downs. Linguistic roots of news about the economy are aimed at shedding light on how media representations and temporal foci echo in economic correlates and shape market outcomes. As business cycles are a collective phenomenon, group interactions' potential contribution to create business cycles will innovatively be outlined and the role of information flows among groups in creating price expectations unraveled. Business cycles will also be shown to obey some kind of natural complexity, as for being whimsically influenced by socio-historic and political trends. Recommendations how to create more stable economic systems by avoiding emergent risks and communicating market prospects more cautiously will be given in the discussion followed by a prospective future research outlook and conclusion.

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

Introduction

Globalization led to an intricate set of interactive relationships between individuals, organizations and states. Unprecedented global interaction possibilities have made communication more complex than ever before in history as the whole has different properties than the sum of its increasing diversified parts. With growing globalization and quickening of transfer speed, information may impose unknown systemic economic risks on a global scale. Collective interaction effects lead to hard-to-foreseeable fallacy of composition downfalls. Emergent risks imbued in interaction appear to be inherent of global economic systems.

Since the post-World War period, the world globalized. International economic activities now involve a larger number of countries and sectors than at any time in history and reaches deeper into every human life than ever (Held & McGrew 2007). Global interaction possibilities have also made communication unprecedentedly complex. With growing globalization and quickening of transfer speed, information flows may impose unknown systemic economic risks on a global scale (Centeno et al. 2013; Okamoto 2009; Urry 2012). Nowadays information flow has no longer limited local effects but potentially unforeseen global and long-term consequences (Leonhardt, Keller, & Pechmann 2011; Stiglitz 2006; Summers & Pritchett 2012). This paper

argues that an asymmetry of information may create risks within economic markets as for fueling booms and downturns.

In the light of growing tendencies of globalization, the demand for an in-depth understanding of how information flow echoes in socio-economic correlates and may steer economic unrest has gained unprecedented momentum. In seeking to shed light on implicit system failures' socio-economic consequences down the road and potentially-disastrous outcomes of cumulative actions triggering mass movements; the paper outlines unexpected dangers and insufficiently-described shadows of the invisible hand of the world economy in the age of globalization. Applying emergent risk theory onto economic fluctuations is an innovative way to explaining how information creates economic ups and downs (Centeno et al. 2013; Centeno & Tham 2013; Held & McGrew 2007). New economic thinking widens the interdisciplinary lens to study emergent risks of international communication shadowing economic markets and the societal compound. In exceeding orthodox economics' insights and traditional public policy attempts to curb societal risks, heterodox economic approaches outlining socio-economics of crises appears as real-world relevant emergent risk prevention strategy (Reddy 2020a, b, c).

Heterodox Economic Cycle Theories

While by the end of the 1960s the most renowned economists agreed that recession were preventable, history proved them wrong (Brenner, forthcoming a). For instance, the period from 1940 to 1973 became renowned for a time of economic prosperity, from 1973 a worldwide recession set in. Historic post World War II booms were transitioned to downturn from the mid 1970s on as the economic performance declined in the industrialized world. While in the 1980s and 90s the economy seemed to expand again, from 2000 on productivity slowed, again, from 1998-99 stock markets and currencies crashed or halted in 2001 and 2008. Today, supply-side theory explains the downturn dependent on pressures from labor (Brenner, forthcoming b). Behavioral economists give credit to the unplanned, uncoordinated and competitive nature of capitalist production as well as the problem of aggregates deviating from the individual's choice predictions.

Economic indicators of product wages, international competition, output-capital ratio, and post-tax profits have been studied extensively to derive conclusions about economic pre-indicators of crises and recommendations for improving economic systems. The role of inflation is widely known in invers relation to unemployment to determine economic conditions (Armstrong et al. 1991; Brenner 2002). The international transmission of inflation is discussed in historic examples (Soskice 1978). Adaptive expectations are built by information about the rate of inflation based on current and past experience with inflation (Soskice 1978). Disequilibrium inflation occurs when the actual rate of inflation is greater than the expected and people try to realize the real income increase followed by social unrest and industrial conflict (Soskice 1978).

While business cycle theories primarily focus on describing economic correlates of booms and busts such as tight labor markets, investment trends (Brenner 2002) and the uneven development throughout the world causing advantages and disadvantages in the economic impact of booms and busts around the world (Brenner 2002); less attention is shed on socio-economic correlates that build expectations leading to irrational exuberance. Yet information about the economy are key in shaping ideas and intentions of individual market actors. Communication on markets are thus argued to be underlying long-term economic trends as well. For instance, information transfer is key for innovation and markets to pick up new ideas. Information shaping expectations are the basis of investment trends. The collective mood in society shapes very many investment decisions amalgamating into economic trends that determine economic dynamism. Individual communication may also be the basis of social unrest and waves of strikes, which have been shown to be an underlying factor determining

wages and rates of profit for capitalist (Brenner 2002). Access to information may also play a key role in price comparisons around the world, which are the basis of outsourcing and capital allocation decisions (Brenner 2002). Information portrayed in media may also determine the investment mood and credit liquidity preference of individuals and institutional representatives. All these correlates set the tact in determining the booms and busts as well as the long term cycles.

The role of information and individual communication for economic long-term cycles, however, has been – so far – overlooked. Communication interventions are neglected in a wealth of writings on Federal Reserve and Central Bank interventions ranging from lowering interest rates to direct monetary stimulus. Studying the effect of information and communication on economic correlates to shape decisions may offer invaluable insights on how bubbles start and economic fluctuations can be smoothed.

Through capturing the interplay of communication and the economy, the following article is meant to shed light on economic downfalls in a heterodox fashion in order to serve as a window of opportunity for alleviating negative externalities of emergent risks of globalization. Pursuing the greater goal of deriving recommendations how to stabilize economic markets in the instant communication century will add to purely economic calculus in finding an optimum balance of deregulated market systems and governmental control (Shaikh 2016).

Historical foundations of Business Cycle Theories

Recurrent crises are part of capitalism. Shocks triggered crises in the 1820s, 1870s, 1930s, and 1970s. The logic of profit drives the system to repeat this pattern, which is inherently turbulent with powerful business cycles.

Business cycles capture fluctuations in the gross domestic product (GDP). Business cycles are the most visible elements of its intrinsic dynamics, including a fast inventory cycle, a medium term fixed capital and possibly longer structures cycles. Business cycle studies identify two types of recurrent aggregate fluctuation tied to investments (1) inventory cycles on the order of three to five years and (2) equipment cycles of about seven to eleven years as well as long waves of forty-five to sixty years (Shaikh, 2016). Inventory cycles are linked to balance between demand and supply, while capital equipment is linked to the balance between capacity and actual output. Long-term growth trends feature periods of rapid economic growth (expansion or boom) followed by periods of relative stagnation or decline (contractions, busts or recessions).

Index of long waves in the price of commodities expressed in gold displaying long wave patterns which are inspired by Kondratieff. In great stagflation the price of gold rose from \$125 to \$615 before subsiding to \$375 by 1982. In more recent times, during the German hyperinflation of the 1920s, prices were actually in gold even through the money which changed hands was fiat paper (Foley 1983). But gold lost its function during the Great Depression (Shaikh 2016, 193). Britain abandoned the gold standard in 1931. The United States effectively did the same in 1933 when it suspended gold backing and asked citizens to turn in their holding of gold coins and gold certificates.

Depression is characterized by high unemployment and falling prices. Booms such the 1980 boom are greatly enhanced by a sharp drop in interest rates, which raises the net rate of return on capital. Falling interest rates lubricate the spread of capital across the globe, promote a rise in consumer debt and fuel international bubbles in finance and real estate. Deregulation of financial activities first appears as success. But slowdowns of real wages relative to productivity and a drop in interest rates and in relative real wages boosted net rate of profit. With falling interest rates and credit being made easier, consumers and other spending continued to rise, buoyed on a rising tide of debt. Crashes occur if people realize that this is not sustainable anyone (Brenner, forthcoming a, b).

In the build-up to every general economic crisis, the price of gold shoots up relative to the price of other commodities. A recession is a significant decline in economic activity spread

across the economy, lasting more than a few months, normally visible in real GDP, real income, employment, and industrial production. Classical economics either denies the existence of business cycles as – for instance in Say’s law there is no over- or underconsumption – or attributes fluctuations to external shocks such as war, hunger, pandemics and natural disasters. But the inherent character of fluctuations in the economy is a rather heterodox view outlined in Marx, Keynes and the Austrian economics followed by Soros and Brenner. In recent decades, the study of business cycles has moved towards economic fluctuations.

Contemporary studies of business cycles and long term waves study the relation of export, investment and raw materials on economic ups and downs alongside the role of institutions (Armstrong et al. 1991; Brenner 2002). The relatively unpredictability of the changing seasons of booms and busts call for a thorough investigation of business cycles embracing heterodox interdisciplinary viewpoints.

Historical examples of exchange rates pegged to dollar and the dollar being convertible to gold as well as devaluation strategies are discussed (Armstrong et al. 1991). Remittances and other credit inter-governmental transfers are vividly described in the literature by historical snapshots. In addition, the role of political ideologies determining budget discipline and trade correlates as well as social unionization is discussed (Armstrong et al. 1991). The Philips curve invers relation of unemployment and interest rate was unraveled as concomitant of economic waves. Shortages and production drivers but also trade association formations play a vital role in determining the economic climate. Remittances and credit expansions influence on prices and industrial production were outlined (Armstrong et al. 1991). But also societal influences such as working class strikes and tax evasion play a role if and when economies boom or bust (Armstrong et al. 1991; Brenner, forthcoming a). Throughout history and vividly underlined by historical examples of France, Germany and Italy, we can see that booms and busts – through social unrest potential – are highly connected and influenced by political ideologies. Central banks and their monetary reform potential are obvious determinants of economic stability. Governmental price control and money circulation means set the tact on the economic status of a nation. The delicate role of war and peacetime recovery is discussed in the literature (Armstrong et al. 1991).

In all this available knowledge, the role of information for building business confidence but also to build social unrest is unknown. While economic stabilization policy using fiscal and monetary policy as well as governmental automatic stabilization appeared to have mitigate the downsides of cycles or at least dampened the worst excesses of business cycles, little is known about the psychological underpinnings of the global mass psychology of crises. Information about the collective soul of crises will help deriving communication strategies to further counterbalance mass movements as a depression prevention to solve disastrous outcomes on economic markets.

By the early 1980s evidence against the monetary surprise and informational confusion hypotheses began to mount. Real Business Cycle Theory (RBCT) developed by retaining the notion of rational expectations and continuous market clearing and adding random productivity shocks to generate aggregate fluctuations that mimicked business cycles. Real business cycle theories attribute technological shocks or political cycles as cause of business fluctuations. The recurrence and turbulent regulation arise quite naturally. Long-run economic patterns in advanced capitalist countries include persistent growth in output, productivity, profits and employment, all taking place in-and-through recurrent cycles and periodic depressions (Shaikh, 2016). Perturbations include “socially influenced relations..., the salutary impact of policy and institutions...; the turbulent equalization of rates of return across industrial sectors; and the structural determination of industrial relative prices (Shaikh 2016, 8). Underlying of these long-term patterns is the notion of turbulent regulation in which balance is only achieved by recurrent over- and undershooting with intrinsic nonlinearities in the process (Shaikh 2016, 8). Endemic turbulent growth is found in US industrial production, real investment and real GNP per capita

over periods of 150 years (Shaikh 2016). There is a recurrence of fluctuations of successive episodes of booms and busts, of overshooting and undershooting, in never ending sequences. Productivity growth is essential a measure of technical change and its steady long-term rise speaks to the fundamental role of technological progress in capitalist development. Technical change is an imperative for capitalist firms, rooted in the very nature of profit-driven competition. Yet agents were still assumed to have rational expectations, the aggregate economy was still treated as an interaction between a representative firm and a representative household and business cycles were taken to be strictly equilibrium phenomena. Technology shocks were assumed to be propagated through the economy, consumption smoothing response of households, the investment responses of businesses and by intertemporal substitution between labor and leisure. In such a framework monetary policy is sidelined because it cannot influence real variables and there is no distinction between the short and the long run because the economy is continuously in equilibrium (Shaikh 2016). In real competition, firms face downward sloping demand curves, set prices, have different costs, and partition into price-leaders and followers. Money is endogenous and non-neutral, aggregate demand and supply are rooted in profitability.

Irrational expectations are grounded in real competition featuring downward sloping demand curves for firms. There is over – and undershooting and imbalance that the fundamentals will not close gaps between expectations that cannot be validated. Markets clear but do not rest in clearance. Whenever there is a bank run, credit money is devalued in relation to paper money and precious metals. In the worst of circumstances, bank accounts turn out to be mere unfulfilled promises, and a part of credit money evaporates. Similarly, when there is serious doubt about a nation's economic health, its currency can be devalued relative to other national currencies, as well as to gold, that currency of last resort for the international system.

Theories of price

According to Adam Smith (1776/1976), free interaction creates an orderly pattern guided by the invisible hand. The price of production has a natural profit, which is only achieved through gravitation. Competition creates order out of activities and makes market wages gravitate around the natural wage. Makes profit rates gravitate around natural prices (Shaikh 2016). Market prices are invisible centers of gravity and profit rates equalize due to the mobility of capital (Shaikh 2016). High profit rates attract capital that brings the market prices down. Low profit rates will slow down supply in the movements of market prices. Center of gravity moves around prices. Prices gravitate among each other. Market prices move around the center. The natural course is that actual market prices are above or below the natural price. Central price is the price to which all prices gravitate continually. Costs and profits are distinct from one another. The natural profit is the profit one deserves added to costs.

The beginnings of business cycle theories of prosperity and depression start in Marx and Keynes, who write about the periodic recurrence of boom and bust in *Capital* and the *General Theory* (Keynes 1936/2003; Sherman 1967). In Marx, every object has a price and there is an agency involved just in setting the price. Marx the price level is derived as the product of the price of commodities relative to gold, which is determined by the monetary regime. Competition between industries makes relative prices of individual commodities gravitate around prices of production price reflecting equal profit rates. According to Sraffa (1960), the price of commodities is a joint result of the price of the commodity itself, the costs of the commodity production as responding to changes in the prices of those commodities which enter into its production. In real competition, prices are given by competition.

John Maynard Keynes

In the classical tradition of Adam Smith, firms create the aggregate and prices are a reflection that will determine the money wages. If prices are not determined by costs, what determines prices is the quantity of money – a point later picked up in Friedman, Phelps and Lucas.

According to Keynes (1936/2003), firms do not set prices, competition sets prices. Firms cannot set any level, raise them at certain level or pressure competition. In the classical theory of money, price wages and levels of production determine the long-run growth rate.

John Maynard Keynes, who became prominent in 1930s by making sense what is going on the world and presenting a solution, captured high unemployment across the capitalist world. Keynes finds a negative relationship between the rate of growth and unemployment. During World War II there was a huge deficit and output and employment rise. Capitalism was meant to create viable employment levels thanks to governmental intervention to adjust for cyclical changes. Prices are proportional to wages. The rate of change of prices is negatively related to unemployment.

Keynes' (1936/2003) business cycles reflect the possibility that the economy may reach short-run equilibria below or above full employment opening the stage for monetary and fiscal policy in smoothing fluctuations of business cycles. According to Keynes, fluctuations in aggregate demand cause the economy to come to short run equilibrium above or below full employment. The implications are that endogenous causes of crises demand for governmental market regulation, for which Keynes largely argues.

According to Keynes (1936/2003) expectations are volatile, moods swing as output moves up and down. Expectations lead to collapse in terms of output and employment falling. Certain markets take the lead – as if the EU or US is stuck in depression, the whole world is affected. Depressions cause real wages to rise, moves in direction of free markets making things worse through rising inequality. Problem of crisis that stagnate action and countermove based on wrong signals. Deficit spending can pump up the system. An expansionary input rate can expand the money supply, shift output and decrease output at any IS curve.

Whereas Keynes' theory of expected rate of profit is describing short run fluctuations (1936/2003), Hyman Minsky (1977) proposes fluctuations in credit, interest rates and financial instability as underlying basis of longer-run business cycles. Economic credit cycle theories featuring an expansion of credit (e.g., increase in private credit or debt as percentage of GDP) yields economic expansions, while the net contraction causes recessions, and if persistent, depressions. In the expansion, interest rates are low and companies borrow money to invest. As firms become excessively indebted, the investing stops, so do the bank credits and the economy enters recession.

Keynes (1936/2003) rest his analysis of aggregate consumption on underlying subjective and objective factors that, in addition to person income, influence individual savings behavior. Subjective factors include the desire to provide for future consumption and contingencies, to use passive and speculative investment to expand future income, to amass wealth, and for some, even to enjoy miserliness. Objective factors include windfall gains or losses, taxation, price controls, expectations and changes in the interest rate (Shaikh, 2016). Institutional and organizational factors shape and channel all such factors.

Austrian school

In the mid-20th century, Joseph Schumpeter (1949) describes four cycle stages of (1) expansion (increase in production and prices, low interest-rates), (2) crisis (stock exchange crash and multiple bankruptcies occur), (3) recession (drops in prices and output, high interest-rates), (4) recovery (stock recover because of the fall in prices and incomes, increase in productivity, consumer confidence, aggregate demand and prices). Schumpeter adopts Walras' model of price-taking firms and maximizing agents but adds the constant creation of innovations adding external perturbations.

Austrian business cycle theory attributes the excessive issuance of credit by banks as driver of crises in banking systems. Excessive issuance of bank credit is exacerbated if central bank monetary policy sets interest rates too low. The resulting expansion of money supply causes a boom in which resources are misallocated because of artificially low interest rates.

This unsustainable boom is followed by a bust, in which malinvestments are liquidated below their original costs and the money supply contracts.

Schumpeter falls short on explaining where innovations come from and why some get picked up and other vanish. The Austrian emphasis on competition as a process that bids away excess profits is close to the core of real competition, except for its explicit assumption of rapid profit rate equalization and the lack of a distinction between regulating and non-regulating capitals (Shaikh 2016). Austrian economics also shares the neoclassical vision that firms are efficient servants of consumers and that union activity and government intervention are unwarranted intrusions into market processes.

Behavioral Economics

In neoclassical economics, signaling begins an announced market price. People have to have perfect knowledge of all circumstances. Firms are too small to affect the market price as supply. If the echo of what you believe is too small, if one gets a signal to expand, it is too irrelevant. Single market actors are too small to affect the market price if no one does anything, everyone else is going to do it. Firms are too small. The theory of perfect knowledge is inconsistent with a firm that believes that they cannot change price.

Behavioral economics challenges the neoclassical tradition. New Behavioral Economics discovers the imperfections in neo-classical theory and shows that real people do not behave the way as anticipated in rational expectation. Individual decisions are made by subjective considerations, which are inconsistent over time and biased by the environmental conditions.

George Soros' Theory of Reflexivity

In the classic tradition, the expected rate of profit is tied to the actual rate of profit. Perfect knowledge enables the right choices. Mutual exchange should ensure that everyone gets better off through trade. Investment banker George Soros (2003) breaks with the classic economic theory, in which customer makes choices entirely for him or herself with no regard to others.

According to Soros, expectations determine prices. Expectations can thus change the fundamentals in creating bubbles. The actual responds to fundamentals that have a higher specific gravity. If the gap between the fundamentals and the actual orbit will grow larger, there will be a reverse effect on the fundamentals. Prices get out of balanced not being justified by fundamentals during the building of the bubble. Effects of moods and expectations change if people realize that assumptions are not sustainable.

Soros' (2003) theory of reflexivity builds on the classics. According to Marx, all firms have market prices. Firms constantly try to reduce prices in order to get an edge over competitors. Competition is driven by competitors trying to sell cheaply to drive out competitors based on technological change lowering costs and cheapening commodities. Profit rates may change expectations similar to Soros' reflexivity theory. If one expects the market price to go up, if a sufficient number of people expects the price to go up, the price will really go up and create a boom in which expectations are running the show. If the market price is above sustainable levels, more and more people will realize that this is not sustainable, which will lead to short deviations from the fundamentals in contrast to long deviations. Animal spirits in disproportion with reality.

Soros' (2003) notion of reflexivity holds that if investors think that the price of stock goes up influences others to think the same. Therefore expectations will be that there is a rising of price that will activate other to follow. If enough people act on it, that alone can drive up the price above its fundamentals. When prices are above fundamentals, people start realize that this is not sustainable and pull out.

In a dynamic process expectations are formed. Expectations influence what happens in the process as people do not correctly anticipate what happens. Soros' (2003) financial market theory holds that some people will believe that people will go on forever. They do not know when

turn will happen. Anticipations are skewed and dependent on other people. If a sufficient number of people believes that the system is not sustainable, the bubble bursts. As for Soros, a number of people rises as the further one gets away from the real price, the bubble bursts. One knows that it will happen but not when it will happen. The more the number of people rises that belief that the system is not sustainable as the further one gets away from the real price, the more information gets shared and the more people realize that the bubble bursts. Finance seen from this angle, becomes a process of social outcomes based on information exchange.

Over the business cycle, one can see certain behavior. While there is a pattern of the economy. Business cycles are dynamic cyclical fluctuations shocks of continuous equilibrating processes. Problem of agents to distinguish between noise and information, distinguish between shocks and change.

In Soros' idea reflexivity is the thinking of a stock price going up. If enough market actors think in this way, expectations about a rising price will activate the market, which can drive up the fundamentals. When prices reach above the fundamentals, early market birds, know that the expectations are not sustainable and pull out. These are not the single representative agents but people betting against the crowd. Individuals who sense that the bubble is about to burst.

Empirical evidence backs Soros' theory of reflexivity and the role of price expectations for the actual price via the behavior of crowds. Turbulent equalizations based on expectations is also addressed in Anwar Shaikh's theory of real competition, which also offers one of the first and foremost empirical validations of Soros' model (Shaikh 2016).

There is a lack of information and a rational expectation assumption on the long run, where deviations are not expected to happen. People have an expected outcome in their perception. Policy makers know but not the agents.

According to Friedman, only surprises matter. If there are no surprises, deviations from the natural rate are temporary. What happens are natural prices but not changes in the actual price level. According to Marx (1867/1995), there are expectations of outcomes in financial markets. In the interest rate. But expectations and outcomes are not the same. In Keynes (1936/2003), since firms have to produce for the future, any production is based on expectations on future outcomes.

The idea of time is fundamental to rational expectations and outcomes. According to the theory of rational expectations, all agents possess perfect knowledge of the future and apply their rational thought to the future. Agents make use of information in a consistent way. There are hyper-rational expectations as the individual expectation or subjected probability of the average agent must be corrected. Surprises matter more than expectations.

Anwar Shaikh's theory of real competition

In Anwar Shaikh's (2016) real competition model as outlined in *Capitalism: Competition, Conflict, Crises*, firms set prices in light of market conditions and competitive consequences, cutting these prices in order to gain an advantage over their existing competitors. The mobility of capital leads to competition in the theory of real competition and there is turbulent equalization. Price cuts are limited by costs. The mobility of capital leads to the equalization of profit rates of capitals on the best reproducible conditions of production (regarding conditions) in each industry. Market prices are flexible and therefore there is an equalization of profit rates. Expectations in real competition are driven by signaling mechanisms. Real competition implies that large-scale industries will tend to have higher range of reserve capacity and more stable prices.

Real competition is antagonistic by nature, turbulent and different from perfect competition. In real competition, each against each competition, everyone uses tactics and strategies to evaluate prospects for gaining. Adoption of technology and mobility of capital lead to lowering costs. Price becomes a weapon of competition in the struggle for profit and market share. Every corporation wants to operate at lowest costs to compete (Shaikh 2016).

In real competition firms set prices, which are weapons in competition for cutting costs and expanding the market share. There is a turbulent equalization of profit rates as prices are going up and down. Price cutting behavior gives competitive firms advantage in terms of competition between industries. Capital moves to the sector with the most defensible price. If new technologies come in, the distribution of costs and profit margins changes. Expectation plays a crucial role in real competition (Shaikh 2016).

In perfect competition, all firms have the same profit rate and there is no competition. But in real competition, the incremental rate of profit derives from new investments and the adoption of new technologies. Firms are driven into new technologies. In real competition higher capital intensity leads to lower costs and there is a falling rate of profit. Firms constantly need to cut costs. Prices are weapons for survival. The price level, which depends on the cost of capital, also determines the interest rate. The real interest rate is the nominal interest rate minus the change of prices. The nominal interest rate is equal to the constant and the inflation rate (Shaikh 2016).

Overaccumulation and overheating

Brenner (forthcoming a, b) attributes overaccumulation and overheating as causes of overexpectations underlying business cycles. Overheated growth appears when capitalism generates a higher rate of accumulation than sustainable and investors realize that the expectations do not represent the fundamental price. Imbalances between accumulation and labor supply will lead to labor shortages and excess demand for labor, which will then lead to a scrapping of old equipment and rise of real wages (Armstrong et al. 1991). Accumulation thereby tends to decline gently to a sustainable rate. Accumulation first drives demand for labor but eventually leads to a profit squeeze through the scrapping of old plants to speed transfer of workers to new means of production.

In the case of overheating prices and wages rise and tighten the labor market, which drives up wages. From there productivity declines and economic prospect become gloom and despondent (Armstrong et al. 1991). Strikes emerge that effect differentials, real wages and profit margins of income (Soskice 1978). Currencies need to be devaluated in order to remain competitive regarding exports.

Equalization occurs with recurrent over- and undershooting (Brenner, forthcoming a, b). The profit rate is central to accumulation because profit is the purpose of capitalist investment and measure of success. Capital tends to flow more rapidly into sectors, in which the profit rate is higher than average and less rapidly into those in which the profit rate is lower. The principles of acceleration and deceleration depend on the profit rate. In the accelerating sector, the faster influx of new capital will raise supply relative to demand but drive down prices and profits eventually. The opposite effect occurs in the decelerating sector. The search for higher profits tends to diminish higher profit rates and raise lower ones. This gives rise to a general tendency for profit rates to be equalized across sectors. A roughly equalized profit rate is an emergent property. In all of this is also a never-ending over- and undershooting in ever-changing centers of gravity. There is never a state of equilibrium, but average balance through perpetually offsetting deviations. Turbulent arbitrage is characterized by recurrent fluctuations. Turbulence becomes normal to profitability. Turbulence becomes the normal climate, in which firms make decisions about investments in new capacity and new methods of production (Brenner, forthcoming a, b; Shaikh 2016).

As Soskice (1978) outlines no statistical analyses of the boom and downturn analyses exists. The nature of communication behind accumulation leading to a cooling of economic productivity remains unknown. The underlying enthusiasm that first drives profitability and confidence is not depicted in qualitative terms, yet overaccumulation was unraveled as one of the underlying future crises onset indicators. Information on the linguistic correlates of economic ups and downs could help 'bridge between rational behavior and societal collective action (Soskice 1978).

Conclusion

Capitalist economies are characterized by powerful long-term patterns of turbulence and deeply-rooted disorder in competition. The economic growth is expressed in and through recurrent fluctuations, punctuated by period depressions. Dynamic social system whose cultures, institutions and policies change substantially over the long run are based on successive patterns of millions of individuals who generate stable recurrent market patterns. Individual agents make choices, and choices have personal and social consequences. Information as a source of motivation to human behavior influences individual decision-making playing a decisive roles in producing aggregate patterns.

Behavior of the whole cannot be characterized by that of any of its constituting elements because a whole is more than the sum of its parts, aggregates have emergent properties (Shaikh 2016). The whole has different properties than the sum of its parts due to the interaction of individuals and the emergent risks imbued in the whole interaction of individuals. The whole is more than the individual but the behavior of the whole is not measurable by the individual ruling out interactions. The individual is not representative of the collective outcome, individual behavior is not the same between individuals but also not linear over time. Aggregate representation differs from the individual. There are emergent properties of heterogeneous agents through the wide varieties of constructions of interactions of individuals. Emergent properties of outcomes of multiple decisions among people with conflicting interests may not be foreseeable or intended but imposed onto different individuals. The importance of historical conditions but also social and cultural structures will also be outlined. Business cycles will be shown to obey some kind of natural complexity, they are whimsical to socio-historic and political trends as well as follow the occasional madness of actual human behavior. The paper thereby embraces diversity in granting heterodox perspectives of our contemporary knowledge on the formation of business cycles. In order to know which particular aggregate properties obtain in a given situation, we need to understand how shaping structures operate and why they can give rise to stable aggregate patterns (Shaikh 2016).

Individuals' perceptions of the future and the state of the economy may influence individuals' spending and investment choices – thus in some countries people end up in an economically unfavorable situation through a self-fulfilling prophecy or self-enforcing mechanism (Semmler 2013). Some individuals may face a vicious cycle transmitted through financial markets, where financial stress and macroeconomic self-enforcing feedback mechanisms eliminate the positive impacts of automatic market stabilizers (Semmler 2013). Contractionary multipliers resulting from a reduction in fiscal spending, which gained attention of EU policymakers in the aftermath of the 2008/09 World Financial Crisis, may in particular imply negative effects in post-crisis economies (European Commission 2014). Regime-dependent multipliers weaken economically already left-behind regions even more (Mittnik & Semmler 2012). Exchange imbalances due to unequal power relations between EU countries thus undermine social democracy and erode the social glue (Held & McGrew 2007).

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The Impact of Order in Preventing Innovation

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ABSTRACT: In education, schools, homes, families, institutions throughout the country and the world, the individual must be neat, punctual, orderly, hardworking, and disciplined. In my work, I analyze the impact of clutter during creation. Throughout history, we have been convinced that chance often defines the entire future of humanity, and great discoveries have not always been associated with the amount of work and dedication invested. Children are prone to clutter, waste, and unrestrained play. Rules do not burden children, and their world is open to all. Children do not know what is possible and what is not and do not understand our stereotypes and regulations. Without rules and laws, society cannot function, but progress and progress into the future always take place when someone deviates from the pattern. All institutions strive for obedience and typification of ways of thinking, which often suffocates the inventive mind. A man who is not trapped by stereotypes finds inspiration and freedom of mind and creation in disorder. In a mess, anything is possible, as in the imagination. Before any discovery in any area of creativity, a “eureka” and a “click” must occur. Materializations thrive after idea and vision. The way to reach these solutions is often inexplicable and unexpected. It requires courage and departure from the rules and boundaries of time and society. People who run the world have the burden of fighting stereotypes. They are often unsupported, misunderstood, ridiculed, and marginalized. Their genius, their freedom is revealed either after death or by a combination of circumstances.

KEYWORDS: clutter, creativity, innovation, creation, discovery

Introduction

Many of the discoveries were accidental, caused by various situations, recognized by the right person, and recorded. Often the people who discovered and created had problems in their environment, all the way to deciding whether to stay alive and refute their discovery or die in the truth. The people who run the world go out of the box because the frame is static. It doesn't allow for strides forward. Every step forward is courage, and only brave and confident individuals have changed the world in the 21st century. In recent times, attempts have been made to encourage creativity, there is talk of nurturing and rewarding giftedness, but realistic microenvironments are not always ideal.

Anything that deviates from the majority is considered strange, abnormal, different, and is still excommunicated, isolated, and fenced off from bold individuals.

Reasons can be of the lowest origin, such as jealousy, envy, and fear on the part of the rulers that some innovation could disrupt the stability and control of the social structure,

The consciousness of the individual, society's consciousness, is controlled by centuries-known methods wrapped in new clothes. The methods are intimidation, ex-communication, isolation, stigmatization, rejection, and punishment. Therefore, many talented and creative individuals, out of fear, stifle their energy, fit into rules, stereotypes, norms, and remain mediocre forever.

The system stifles innovation, and only when the intrinsic motivation and strength of the individual manages to overcome everything are changes possible. The development is not over here either, because the realization requires donors, finances, and if all the predispositions are not realized, many inventions remain unperformed.

Play as creativity

The game is the most autonomous human activity and the most expressive form of children's activity. The game is easy to implement, simple in content, spontaneous, fun, exciting, but most importantly useful for the child's development. development, The child develops memory by playing. and developed through various games.

Freedom of play allows each child to express what he feels: joy, satisfaction, dissatisfaction, laughter, crying, fear, disappointment, success, security, insecurity, need for society, anxiety. Play enriches, liberates, helps, connects, occupies, reveals and the game matures, and develops. The game is the initial interaction with the environment. Play is a child's right. Divergence (organization of behavior in a new way), incompleteness (concise behavior, without reaching a goal), inadequacy (behavior is opposed to a given situation). The game is an autobody activity, it has its own sources of motivation, the process of the game is more important than the outcome of the action. The dominance of means over goals prevails in the game, the absence of immediate pragmatic effects. The game fulfills the private functions of the player: it relieves tension, resolves conflicts, positively regulates physical, mental, and socio-emotional development. The game is performed in a state of optimal motivational tone. It develops in the absence of coercion and threats. The game is in a state of moderate mental tension. It is intrinsically motivated, not prompted by external stimuli, not mandatory. It is spontaneous, it is free from external punishments, it is an end in itself. The game asks the question, "What can I do with this object or person?" The game is not a serious performance of an activity or behavior. The game is free of external rules. It involves active engagement. Childhood and play connect the inner world of the imagination with the imitation of reality and adults. Visualizing, inventing, creating is allowed in the game. There is no stupidity or error in the game. Each event is fun and takes the flow of the game into new dimensions. Children at play can be on the moon, in space underground, at sea, in the depths of the ocean, in the sky, they can fly, change shape and roles. The game is omnipotent and without limits.

Normally

A debatable criterion of mental health as a deviation from normal is widespread. There is a social fear of the notion of the abnormal. It is normal what is socially desirable and acceptable. Normality is equated with mediocrity. Normal behavior must not go beyond the framework imposed by social norms. A person must react predictably to situations in order for the majority to react. A normal person must not have major failures, unpleasant situations of which he is the cause, he must not deviate in behavior, clothing, inclinations.

A normal person conscientiously does her job, obediently does what her superiors tell her, does not dream, does not start work for which she is not sure how it will end. A normal person does not dream like a child and distinguishes reality, possibilities, and knows boundaries. She consults with colleagues and cares about social recognition and status. He doesn't waste time on non-profit jobs, nor does he invest his money in experiments.

The problem of understanding the normal arises when comparing the time, place, culture in which we are - between the peoples of Europe and Asia, America, Africa. Normally there are contradictions when we think about how the notion of what is "normal" behavior changes over historical periods.

Mess

Clutter is identified with the terms: chaos, chance, disorder, untidiness organization, confusion, disorderliness, scattering, disarrange. Man is a being who, to a greater or lesser extent, explores

the environment and the world around him from the microcosm to the macrocosm. All achievements the human race puts into patterns and defines. Man has a need to keep everything under control. It all starts with the birth and the introduction of the rhythm of sleeping, feeding, tracking the length and weight of the newborn.

Looking back at the time scale we notice that individuals who deviated from the rules moved the world, consciousness, and opinion of the masses. The lives of these brave, strong, intelligent people were often not glorious, but even disastrous. Society is a hierarchy and when someone in government does not want to lose the established norm of behavior, habits, fears that ensure the functioning of a particular order. The methods are similar from the first civilizations to the present day. They are intimidation, ex-communication, public shame, isolation, the death penalty, life imprisonment, slavery.

Looking at the macrocosm and the microcosm, a man at the same time notices perfect order and finds and explores formulas by which he wants to substantiate the theory of order, but there is always room to refute the acquired knowledge and add new insights.

In the desire to find an order, a man struggles with his own body structure and nature. The human body is a perfect machine. On the question of perfection, one can always find some "but" which leaves room for what is not clear to us and which does not fit into mathematical purity and order. There is no perfectly healthy man, no perfect beauty, no perfect mind. Disease, mutations, are a warning and a reminder that our structure and environment are too complicated to be described by formulas. Many branches of science have developed, information is growing. We know the DNA structure, we know countless diseases, countless mutations, countless deviations from the set ideal that we have not yet managed to create. The universe is full of surprises and deviations.

Therefore, many inventions and discoveries happen like flashes or clicks in the minds of scientists. Imposing one's will on one's environment and the desire to maintain order and control in any area of life will never be achieved.

The paradox of control provokes rebellion against the controllers themselves: examples include young children, partners, and ourselves, whenever we try to stick to some firm new schedule or habit. The desire to control rising standards is becoming more demanding, and minor control failures are frustrating.

Some people need clutter in order to feel relaxed, free, they do not lose energy to stack, sort because in their energy and rush of research and creation they consider it a waste of time. In his workspace, the creator manages very well and remembers where what and why was left or put away.

Chaos theory is a branch of mathematics that focuses on the study of chaos as dynamic systems whose seemingly random states of disorder and irregularity actually govern fundamental patterns and deterministic laws that are very sensitive to initial conditions. Chaos theory is an interdisciplinary theory that states that within the apparent randomness of chaotic complex systems there are fundamental patterns, interconnectedness, constant feedback loops, repetition, self-similarity, fractals, and self-organization.

Chaotic behavior exists in many natural systems, including fluid flow, heart rate irregularities, weather, and climate. Chaos theory has applications in a variety of disciplines, including meteorology, anthropology, sociology, physics, environmental science, computer science, engineering, economics, biology, ecology, pandemic crisis management, and philosophy. It is a natural state of chaos.

Upbringing and education

The child in the maternity ward becomes a member of society, gets its number. It measures the child's weight and length and enters the system by birth. He is allowed at the earliest age to playtime which is forbidden to him as he grows up and introduces him to a world of obligations

and duties. In the school system, in addition to the necessary knowledge, he has to go through a lot of information while learning, collecting the best grades and diplomas and certificates. Paper is the definition and guarantee of its ability and integration into society and the system.

In the process of schooling, an individual accepts everything and goes through various obstacles, obligations, requirements that are useful, and those that are reminiscent of dressage. At the end of the process, we get almost uniformed holders of a certain profession. A man is fit for a job that will do most of his life.

Any pressure on a person has an adverse effect on work performance, causes stress, and the brain shrinks. Stress adversely affects each individual. One way to cause stress is the process of schooling itself, the struggle for grades, that is, the struggle for survival during employment and the extravagant reward in the form of a monthly income. In the rut of everyday life, man gets tired, overwhelmed with data, accounts have no time to create.

Creativity

In the 21st century, initiatives to awaken creativity are emerging. From uniformed learned people, it is again trying to return them to the state of freedom, the childhood of creation, the age of unfettered creativity. There are creativity awakening courses. The methods on offer range from scientifically tested to fraudsters and laymen.

Defining creativity, different experts end up with the same conclusion. Creativity means the ability to generate something new, for example, unusual ideas, deviations in thinking from stereotypes and traditional schemes, and quick resolution of problematic situations. The ability to be creative or inventive is a useful trait for a person because that trait allows them to adapt to the world around them.

It is believed that creativity is based on divergent thinking, that is, thinking that diverges in several ways. Divergent thinking is triggered when one problem is solved in different ways, each of which can be accurate. Obviously, the multitude of solution options creates the ability to find original ideas.

Our brain is divided, and each half has its own way of cognition, its own special perception of the surrounding reality. Figuratively speaking, each of us has two minds, two consciousnesses, that communicate and cooperate through a connecting “cable” of nerve fibers that extend between the hemispheres.

There is a lot of research-based on examining the brains of people who are characterized as creative people. The left and right hemispheres of creative people are better connected, the flow of information is freer, and people do not separate logic, reality, norms from their ideas of imagination and the desire to reproduce the imagined.

Creativity always contains originality, i.e. something new, unusual, and unused in a way known until then. If we reduce all definitions of creativity to a "common denominator", we get constant determinants of creativity: creating or proposing something partially or completely new, creating an existing object with new properties or characteristics, imagining new possibilities that no one has yet designed, looking at or performing something completely a different way from the way previously considered normal or possible and the like.

We know little about how the brain actually works, our evolutionary history tells us this: A brain designed to solve problems related to survival in an unstable external environment, and doing so in almost constant motion. Learning from mistakes so that we could survive in large expanses also meant paying attention to some things to the detriment of others, and it meant creating a memory in a special way. Today, medicine offers a complete assessment: "Although we have been forcibly pushing our brains into classrooms and booths for decades, our brains are actually designed to survive in the jungle, not in offices."

Unconscious cognition is the processing of perception, memory, learning, thinking, and language without us being aware of it.

The role of the unconscious mind in decision-making is a topic widely discussed by neuroscientists, linguists, philosophers, and psychologists around the world. Although the actual level of involvement of the unconscious brain during the cognitive process could still be a matter of differing opinion, the fact that the unconscious brain plays a role in cognitive activities is undeniable.

Creation

Creation is present in all areas of human life. The difference in approach characterizes what man creates. Multiplication, the production of an individual product meets the limits of the majority and their reach is in the accumulation and making of capital. After new discoveries, the production system changes, and production continues while demand is in the market.

The higher form of creation encompasses the intriguing motivation of individuals who invest their energy in research, exploration, the search for new ideas and discoveries. Such a way of thinking is possessed by unrestrained children and a creative mind. The difference between the commercial release of products in addition to financial gains is that creative creation does not bring wealth in material and economic. Creativity, unrestrainedness, clutter are the state of nature and children's games.

Coincidence of discovery

Life brings everyone unforeseen situations, problems. The difference in perceptions of problems and differences characterizes the personality and the way a person will develop and whether they will progress. The creative person in the problem sees a challenge, fun, the possibility of research. Strange and abnormal to the creative mind is not a negative connotation, but an opportunity for discovery, idea, and inspiration. Natural laws happen to everyone, but only geniuses recognize them in an instant. It is necessary to make a mess in the creation.

The definition of disorder refers not only to scattered things in the environment but also to concepts such as street riots, messy life, etc. Any deviation from the majority and a desire for change causes disorder in its area. Excessive desire for control, burdening with rules, levies, taxes, obligations leads to a crackdown, causes the opposite effect and a mess, revolution, change occurs.

The discovery is made by people who are curious about the new and dissatisfied with the status quo. These are people who are curious and who ask old questions in new ways and who ask new questions. Inventions are created by curious people dissatisfied with current methods and means of work. These are people who are looking for something more than gradual improvement in the usual way of working. Innovation is born of dissatisfied people looking for new opportunities behind doors that most people believe are closed.

“Coincidence” is often applied to discoveries and inventions made by chance rather than with intent. Examples in all segments of human existence are Nobel, Pasteur, Archimedes, Newton, Einstein, Fleming. Random discoveries stem from the convergence of preparation, ability, and desire.

Conclusions

Children are unfettered, free, unencumbered. Until society and parenting systems take children into their molds, children are not afraid of mistakes, they are not ashamed, they are not afraid of stupidity, they are not condemning, they are not judging. Children do whatever comes to mind. Growing up, many lose the natural property of creative thinking, accept molds, stereotypes, accept themselves as a personality type, do not dare to step out of the zone of comfort and mediocrity. Creatives, researchers, scientists do not succumb to the pressures of mediocrity,

overcome various obstacles, do not give up, listen to their impulse to create, follow their curiosity and desire to explore and discover.

Free creative people change the material and social world. They follow their visions, see new laws that touch us all. They notice deviations, discover existing laws, recognize coincidences. With an open fearless mind, they follow their intuition, drive their inner motivation, are not afraid, do not accept boundaries, and move the world. Encouraging already stifled creativity is a pale copy of the true potential that children innately have in their free world of imagination, vision, ideas, and unencumberedness.

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Features of Karl Barth's Theology of the Word of God

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ABSTRACT: The aim of this article is that of exploring the features of Karl Barth's theology of the Word of God. Starting with the way Barth sees the forms of the Word of God and their indissoluble unity and continuing with way Barth sees the nature of the Word of God, the analysis will show the features of Barth's thought about the Word of God as a witness to the revelation of God, as constitutive for the life of the Church and as paramount for the proclamation of the Church. Moreover, the analysis will reveal the way in which argues the fact that the Word of God is the medium in which the knowledge of God, is possible to the believer as an individual and for the Christian community as well.

KEYWORDS: Revelation, knowledge, faith, witness, proclamation

Introduction

It is notorious in the Christian circles, the insistence of Protestantism on the importance of the Word of God in the life of Christian believer and of Christian community (Rotaru 2012,7). This importance is underlined by the fact that the preaching of the Word is many times, at the same level, in Protestantism, as the sacraments of the Church (Barth 1936, 1).

In contemporary Evangelical Church, one of the main areas in crisis is the one related with the Word of God. Many of the disagreements among Christians today, are related to the way in which they interpret the Word of God. In this context Karl Barth's doctrine of the Word of God, might be relevant for the correction of the way in Evangelical Christian believers and communities relates to the Word of God.

Barth's doctrine of the Word of God is, therefore, relevant for contemporary Evangelical Christianity for the very reason that keep in balance the necessary equilibrium that needs to encompass any discussion of the work of man with God, the faithfulness of God that reveals Himself, and the faithfulness of man that respond to God's revelation.

The Three Forms of the Word of God and their Indissoluble Unity

Barth starts his inquiry into the doctrine of the Word of God, by analyzing *the Word of God as preached*, saying that "the event of real proclamation is the life-function of the Church," and that in this event the church "becomes the Church" (Barth 1936, 98). Accordingly, for the proclamation to be real proclamation, the Word of God is the base, the object and also, the judgment, (Barth 1936, 99-104) of proclamation in order for the Word of God to constitute the event of proclamation itself, "a miracle of revelation and faith," in which the proclamation is not only "man's language about God, but also and primarily and decisively God's own language" (Barth 1936, 104).

Barth says that human service in proclamation must be done in obedience and recognition of being created by God, and as such, not at the same level with God. Only in this state of obedience and recognition of God's sovereignty, human service is real, and could be done without taking out from the center God's sovereign will. Only as such, the proclamation of the Church is constituted by the will of God and is "the event of God speaking Himself in the sphere of human events, the event of Jesus Christ's vicariate plenipotentiary" (Barth 1936, 105-106).

Secondly, Barth analyses *the Word of God as Scriptures*. Church's proclamation means, says Barth, also "recollection of past revelation and expectation of future revelation of God," and as such the actualization of a revealedness of God," meaning "the discovery and fresh appropriation of a long hidden, forgotten, and unused part...of the timeless essential state of man himself, namely, his relationship to the eternal or absolute" (Barth 1936, 111). This is the reason why the church, in its proclamation, is not grounded in itself, rather in what transcends it, the person of Jesus Christ, who is "immanent in the church because He transcend her." This distinction between Christ and the Church, says Barth, is materialized in the fact that Holy Scripture is the instrument of "God's past revelation, and as such constitutes itself as the source of Church's proclamation, being the base, object and the judgment of Church's proclamation, its "direction for work, her marching orders." (Barth 1936, 113-114).

For Barth the constitutive role of the Scripture as the Word of God, for the Church, is seen in the "vicariate of the church's proclamation" that is succession (Barth 1936, 115). Unlike the Roman Catholic view of apostolic succession, a mechanical transmission from Peter to every Roman bishop, Barth's view is that this apostolic succession is pneumatic, beginning with Christ, apostles and the church. Therefore, says Barth, the apostolicity of the church is "a divine gift and a human task," and as such "a pointer and a guide."

Pneumatic Succession obviously implies that the *successor* is pneumatically identical with the *antecessor* but certainly not mechanically and therefore in such a way that the *antecessor* is left with a field of operation of his own as contrasted with the successor. But such a field was assuredly not given to the first Peter in the Roman Catholic system, but here the *antecessor* is taken up and absorbed in the successor..." (Barth 1936, 116).

Here the apostolicity of church's proclamation is constituted, and as such, "Peter, the apostolate, and Holy Scriptures" are a "free power in the Church and over against the Church," rather than the church being "left to herself, pointed to herself, and so to reflection upon herself." (Barth 1936, 116). Barth concludes:

The apostolic succession of the Church must mean that she is guided by the canon, i.e. by the word of prophets and apostles as by the necessary rule of all expression valid in the Church – that she enters upon the succession of the prophets and apostles in their office of proclamation...(Barth 1936, 117).

For this to be a reality there is necessary, says Barth, to be "a living succession" between antecessor and successor that could be preserved in the fixation in writing of successor's proclamation, that is, says Barth, the "very written Word" with its "free power to-day over the Church." Here in "the scriptura sacra" is grounded the "free power towards the church" and also the "living nature of succession" (Barth 1936, 117).

Speaking of tradition of the church, Barth shows the difference regarding the Scriptures. He says that while "in the unwritten tradition the Church is not addressed, but is engaged in a dialogue with herself," the written Word has the "authority irremovably confronting the Church" (Barth 1936, 118). In this context Barth speaks about biblical exegesis:

Exegesis is always a combination of taking and giving, of expounding and inserting. The very exegesis...is thus also a sign of the standing danger of a confiscation of the Bible by the Church, of an absorption, a making up of its own life by the Church's life, of a transmutation of its free power into Church authority – in short, of an annulment of its character as the norm, which magisterially confronts the Church... All exegesis may become predominantly an imposition instead of an exposition, and to that extend deteriorate into a dialogue of the Church with herself... Bible exegesis should be left open...not for the sake of free thinking, but for the sake of a free Bible (Barth 1936, 119).

Holy Scriptures, continues Barth, is "the word of man, who longed for, expected, hoped for this "Immanuel," and finally saw, heard, and handled it in Jesus Christ. It declares, attests, and proclaims it" (Barth 1936, 121). As such, the "recollection of God's past revelation, the

discovery of the canon, faith in the promise of the word of the prophets and apostles, or better, the Bible's imposition of itself on the strength of its special content, and therefore the existence of real apostolic succession- all that is an event and can only be understood as an event. In this event the Bible is the word of God." (Barth 1936, 120).

Accordingly, the Bible is the Word of God when God allows it to be as such, speaking through it. So, the affirmation that the Bible is the word of God is a statement of faith that hears God speaking through the Bible. Therefore, "the Bible becomes God's Word in this event ... in the statement that the Bible is God's Word. It does not become God's Word because we accord it faith, but of course, because it becomes revelation to us (Barth 1936, 123-124).

Thirdly, Barth analyses *the Word of God as revelation*, starting by saying that the Bible is "the concrete medium by which the Church recalls God's revelation in the past." He continues and says, that the Church "is called to expect revelation in the future," and "thereby challenged, empowered and guided to proclaim." The Bible "is not itself and in itself God's past revelation" and the proclamation of the Church "is not itself and in itself the expected future revelation" Rather, the Bible is the Word of God "by *really* attesting the past revelation of God, and the proclamation is the Word of God by *really* promising revelation." (Barth 1936, 124-125). The three forms of the Word of God, says Barth, have to be regarded in an indissoluble unity.

The revealed Word of God we know only from the Scripture adopted by Church proclamation, or from Church proclamation based on Scripture. The written Word of God we know only through revelation, which makes proclamation possible, or through the proclamation made possible by revelation. The proclaimed Word of God we know only by knowing the revelation attested through Scripture, or by knowing the Scripture, which attests revelation (Barth 1936, 136).

The Nature of the Word of God

After the analysis of the three forms of the Word of God and the indissoluble unity between them, Barth continues to analyze the nature of the Word of God. Firstly, in regard with its nature, Barth evokes the spirituality of the Word of God. Even though, the Word of God is displayed in a "natural and corporeal" in the physical event of preaching, it is "primarily spiritual" and only as such also "a corporeal or natural event" And this is so, says Barth, because "the Word of God is a rational and not an irrational event." This is the framework in which are interconnected the speaking, hearing, understanding and obeying of the Word spoken by God and answered by man through faith. "It is faith," says Barth, "that hears, understands, and obeys God's speaking." (Barth 1936, 151-153).

Barth concludes his assertion on *the spiritual character of the Word of God*, by pointing out that this is the reason why the Word of God is unique and different by any other word. And this uniqueness of the Word of God, circumscribes its "power of truth," reflecting the character of God, and as such, having "the normal arrangement of spiritual and natural," unlike the "naturalness and spirituality" of man's word, limited by its fallen condition. Secondly, Barth evokes *the personal character of the Word of God*, reflecting the personal character of the Person who speaks it, God. The Word of God therefore is to be regarded, says Barth, "in its identity with God Himself" (Barth 1936, 154-155).

The personification of the concept of the Word of God, which we cannot avoid when we remember that Jesus Christ is the Word of God, does not signify any lessening of its verbal character. But it signifies (and signifies of course) the knowledge of His personalness as distinguished from all thingness or materiality, even though and so far as it is the Word, the Word of Scripture and the Word of preaching (Barth 1936, 157).

Barth concludes by saying that this personal character of the Word of God, points also to its freedom, reflecting the freedom of God, a freedom that God exercise in regard to His Word, expressing it anew as He expressed in "the verbal form of Holy Scriptures" (Barth 1958, 19), this being an expression of His faithfulness: "God's faithfulness to His Church consist in Him

making use of His freedom to come to us in His Word, and in reserving to Himself the freedom to do this again and again” (Barth 1936, 158).

Thirdly, Barth evokes *the purposiveness of the Word of God*, meaning that God’s Word is always related, points towards man, and has a specific address, as an expression of God’s initiative towards man (Barth 1936, 158). In this context the Word of God, says Barth, “always tells us something new, which otherwise we could never hear from anyone. As such the Word of God aims always “to touch us in our existence,” for the necessary “renewal of the original relationship between us and Him, and to bring this restored relationship through reconciliation to fulfillment and completion (Barth 1936, 160-162).

If God Word’s spiritual and personal character and its purposiveness are related with the nature of the Word of God as God’s language, Barth continues his analysis on the nature of the Word of God from the perspective of God’s language as God’s act. In this regard, Barth considers first, *the contemporaneousness of the Word of God*. The framework in which this contemporaneousness is regarded, is defined in Barth’s perspective, by the three times: the time of direct and unmediated “utterance of God Himself, in His revelation, the time of Jesus Christ; the second time is that of testimony of the apostles and prophets, and the time of the Church itself (Barth 1936, 164). Yet, given the differences of these three times, the only constant element is the revealing act of God.

Because the Word of God is this act in this step from revelation to Scripture and to Church proclamation, i.e. in the full, strict distinction of times, it is one, it is contemporaneous.... We said “contingently contemporaneousness,” just to emphasize the character of this contemporaneousness as an act, an event (Barth 1936, 169).

The second meaning of the Word of God as God’s act is, says Barth, “*its power to rule.*” He says:

Where and when Jesus Christ becomes contemporaneous with us through Scripture and proclamation, where i.e. the “God with us” is uttered to us by God Himself, we come under a Lordship (Barth 1936, 170).

As such the Word of God challenges us and offers us the entry under the Lordship of God, and also, it challenges us to face the promise of God that confronts us with the result of moving us into a totally new position. And because of this power of the Word there is no neutral position for man after the encounter with the Word, and in accordance with the acceptance of the Word and of the Lordship it brings, makes man saved or lost (Barth 1936, 173-175).

And this lead, thirdly, to the fact that *the Word of God, as God’s act is a decision, a divine decision* that “becomes operative on and in a decision of the man to whom it is spoken” (Barth 1936, 182). Barth concludes:

Faith and unbelief, obedience and disobedience are only possible in that action in the judgment of God they are the answer, one way or the other, to His Word addressed to us. In faith and in obedience my own resolution and choice are genuinely God before God, I exist, whatever else may be said of me, according to the Word of God. I have adopted and received His grace. In unbelief and disobedience my own resolution and choice, whatever else may be said of them, are genuinely bad before God, I exist in contradiction to the Word of God, I have not adopted His grace. In one way or the other it is *I* – so that it is, my extremely responsible decision (Barth 1936, 183-184).

If under the rubric regarding the nature of God’s Word, firstly, Barth spoke of God’s word as God’s language and secondly, as God’s language as God’s act, thirdly, he speaks of God’s language as God’s mystery. Barth says that *God’s Word remains a mystery in its presentation to the world*, presentation in which God “veils Himself.” The facts are that God Himself veils Himself and in the process –which is why we should not dream of intruding into the mystery– unveils Himself. (Barth 1936, 188-192).

The second aspect of God's language as *God's mystery is the Word's one-sidedness*. This aspect refers to the fact that the unveiling of the Word, in its veilingness produces reactions in the life of man to whom it is addressed, reactions that determines man's attitude to life. The profundity of these reactions depends says Barth, "when our clarity, our thoughts, our attitude in life...has its very determinate limit in other: the limit set by the very Word spoken to us..." (Barth 1936, 198). From here Barth continues:

Faith is therefore invariably the recognition of our limits and the recognition that our hearing is bound to God Himself who wills to lead us now through form to content, and now through content back to form, and in both cases to Himself, who one way or the other does not give Himself into our hands, but keep us in His hand (Barth 1936, 201).

Finally, says Barth, *God's language is mystery in its spirituality*. And this is related to the Holy Spirit, the One that mediates the spiritual touch of the Word to the life of man. The Word of God is as mystery in that it really touches us spiritually, i.e. invariably only through the Holy Spirit, in full mediacy only immediately from God's side (Barth 1936, 209).

The last analysis, after the three forms of the Word of God and its nature, for Barth is that of God's Word knowability, regarding three aspects: The Word of God and man, the Word of God and experience and the Word of God and faith. For Barth, the Word of God is the reality that constitutes the identity of man:

Being mediated through their acquaintance with it, it will commend itself to them as reality. It is directed to them in order that they may let it be spoken to themselves and so may be what they are no longer apart from it, but with it. (Barth 1936, 217).

Also, says Barth, the Word of God, incarnated in Jesus Christ is the One that opens the possibility for man to enter in the movement from what „they were” to what „they will be... as bearers of this Word,” as knowers of it and through it of themselves, a knowledge that comes exclusively from God, outside any ability of man himself, rather only because of God's sovereign will, that gives the ability for knowing, to man, in His Word (Barth 1936, 218-224).

Second, if the knowledge of the Word of God is possible in the event of the Word of God, then also, says Barth the experience of the Word of God is a real possibility.

We defined knowledge as that confirmation of human acquaintance with an object whereby its trueness becomes a determining factor in the existence of the man who knows. It is precisely this factor determining the existence of the man who knows that we call experience (Barth 1936, 226).

Barth continues by defining the experience of the Word of God as being the reality of the Word that determines men's existence, in the "act of human self-determination," a determination that consist in the acknowledgment of the Word of God as true, in the context of a personal relationship with God, an acknowledgment that leads to acceptance of the Word as being good for man's life, as the Word means Christ's actual presence to man. This reality of the power of the Word in the life of man is grounded in God's own decision of sending "the Word to man," an "act of divine freedom and choice (Barth 1936, 227-235).

Experience of the Word of God to man is, therefore, invariably experience of divine freedom and choice and therefore itself decision, decision about man which becomes manifest by characterising man's decision as a decision for faith or unbelief, for obedience or disobedience. (Barth 1936, 235-236).

Third, the knowledge of God is an event of faith, in which, says Barth, the "control passes to acknowledgment of the Word of God, that becomes "man's act and experience...put in force...by the Word of God acknowledged (Barth 1936, 263-272). This experience presupposes and is conditioned, says Barth, by the necessity of "a point of contact" between God and man:

Apprehension of the Word of God could not take place, were there not in and along with this event something in common between God who speaks and man who hears, an analogy, a similarity, for

all the dissimilarity involved in the difference between God and man, “a point of contact” between God and man (Barth 1936, 273).

Only through faith, therefore, the knowledge of the Word of God is possible, faith being a reality only of a man in whom God’s image, lost in Adam, was restored in Christ, and as such, he can hear the Word (Barth 1936, 276). Barth concludes:

The Word of God becomes knowable by making itself knowable... The possibility of knowing the Word of God is God’s miracle on and in us, just as much as are the Word itself and the utterance of it... we are concerned here to realise that the mutual involution, in fact oneness of human and divine possibility, of man’s knowing and his becoming known by God, is an event in man’s freedom, and cannot in any sense be regarded as the product of it, and therefore as the result of an intuition, of a thinkable or achievable deepening or heightening of the life of the soul of man... the knowability of the Word of God is really an inalienable affirmation of faith, but that precisely as such it denotes the miracle of faith... (Barth 1936, 282-283).

Conclusion

The aim of this paper was to analyze, the Word of God in Barth’s theological perspective. According to Barth’s thought the Word of God is first, the base, the object and the judgment, of Church’s proclamation that is as such the event in which the church becomes the Church. The Word of God presents itself in three forms that are indissolubly united: the proclaimed Word, the written Word and the revealed Word.

Secondly, we analyzed the nature of the Word of God, as God’s language is a spiritual and personal reality characterized by purposiveness. Moreover, God’s language as God’s act is characterized by contemporaneousness and the power to rule, being also a divine decision that requires man’s decision of faith. Then God’s language is God’s mystery by the fact of veiling and unveiling, in its one-sidedness and in its spirituality.

Thirdly, we analyzed the knowability of the Word of God regards three aspects: the Word of God and man, the Word of God and experience and the Word of God and faith, all these aspects of the Word of God reflecting the character of God as the God of revelation and man’s answer in faith and obedience to this revelation.

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Death in Vajrayana is About Living Consciously

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ABSTRACT: The truth that death can come to anyone, anytime, and anywhere has accompanied us since birth. Buddhists would say that the moment of birth is already the beginning of a dying process. Dramatically, living is akin to dying slowly every moment. Death is a big subject in Buddhism. In Vajrayana, a Tantrayana form of Buddhism in Tibet and surrounding Himalayan regions, it is covered in great depth in *The Tibetan Book of the Dead*. The essence of the esoteric teachings is not only about dying consciously but more about living consciously.

KEYWORDS: Buddhism, Vajrayana, Buddhist Teachings, *The Tibetan Book of the Dead*, *The Bardo Thodol*, Treasure Teachings, *Terma*, *Terton*, *Bardo*, Dakini, Guru Rinpoche, Yeshe Tsogyal, Karma Lingpa, Buddhist Path, Merits, Distractions, Karma, Causes and Conditions

Is death in Vajrayana about dying or living?

The COVID-19 virus emerged from Wuhan in China and spread worldwide at unprecedented speed and vigor, bringing suffering and deaths to millions. Generally, death is a grave and sad phenomenon, but it also offers a unique opportunity for a swift liberation in Vajrayana. “*The Tibetan Book of the Dead (Tib. Bardo Thodol)*” explains it in great depth. In this ancient Tibetan book, we will explore the questions on what it says about death, the dying process, dying consciously, and, finally, about living consciously.

Treasure teachings and the roles of female masters

One of the unique characteristics of Vajrayana Buddhism is the existence of treasure (Tib. *terma*) teachings, popularly prevalent in the oldest Nyingma tradition of Tibetan Buddhism. There are many treasure teachings in different Buddhist texts (Rinpoche and Dorje 1991, 743-745). These hidden teachings are for future generations.

In the 8th century, Guru Rinpoche, a great tantric master and founder of Vajrayana Buddhism in Tibet, devised an ingenious method of concealing numerous valuable teachings that were ahead of its time. Out of compassion, he hid these teachings for future generations and then assigned future treasure revealers (Tib. *terton*) to discover them at an appropriate time and propagate them for the benefits of all the sentient beings (Rinpoche 2003, 34-35). These *tertons*, except for a few celibate monks, mostly live in households with consorts (wives), children, and possessions. This choice of lifestyle is not for sensory enjoyment; on the contrary, a form of practice to transform every source of life experience for greater realization (Rinpoche 1997, 82).

There are two aspects to *terma* tradition: (1) the tradition of teachings that are discovered by realized *tertons* from sky, mountains, lakes, trees, and (2) the tradition of teachings in books and other forms entrusted to extraterrestrial beings to protect and hand over to the right person at the proper time (Rinpoche 1997, 57). There are many types of *terma*, such as earth *terma* (extracted from objects), mind *terma* (extracted from the minds of *tertons*), and pure vision *terma* (extracted from the visions by *tertons*).

Learning about the *terma* tradition in Tibet and some of the female and male treasure revealers will give you a glimpse of the vibrancy of this tradition that goes beyond gender and continues to thrive even today. Female *tertons* have played a pivotal role in the preservation and propagation of *terma* teachings. In the 8th century, the great Yeshe Tsogyal, one of the main twenty-five disciples of Guru Rinpoche, was instrumental in concealing many of the precious teachings of Guru Rinpoche as *termas* for the future generations.

The female masters are known as Dakini (Tib. *Khandro*). Dakini is not a gender-specific pronoun. It means an individual who freely moves in the unlimited pure space of the panoramic wakefulness (Drolma 2017, 27). The Dakinis are the protector of Vajrayana, like the security lockers in a private bank. Some do manifest in human forms to benefits sentient beings. A few wonderful examples are Khandro Yeshe Tsogyal (8th century), Sera Khandro (19th century), and Khandro Tare Lhamo (20th century). The latter two were renowned masters in their rights and active contributor to the living tradition of Dakini and treasure teachings in Tibet.

Introduction to “*The Tibetan Book of the Dead*”

The Bardo Thodol was one of the valuable *terma* teaching that was revealed by Great *terton* Karma Lingpa in the 14th century. It was introduced to the West by an English translation in 1927 by Lama Kazi Dawa-Samdup, edited by W. Y. Evans-Wentz.

We have to overcome Distractions to Buddhist practice, and for many, death is a distraction in two ways: its unpredictable nature and its silence unnoticeable continuous occurrence. Due to these causes, a fallacy prevails that it might not occur soon. Continue to believe in living with future appointments and plans for months or years ahead.

On the other hand, *The Tibetan Book of the Dead* is reminding and teaching us that we are dying every millisecond. It has never stopped since our birth from our mothers’ wombs. There is no way you can prevent this from happening.

In simple terms, the Tibetan word *bardo* means the experience between death and birth. “*Bar*” means in between, and “*do*” implies island or landmarks between two things (Fremantle and Trungpa 1987, 10). “*Thodol*” means liberation upon hearing. In the Nyingma lineage, death has never been negative because one will never appreciate life without death (Khyentse 2011a). It is precious teaching about life and death—more precisely living and dying.

The six *Bardos*

There are six types of *bardo*: the first *Bardo* of birth and life from conception to death. It is a gap between when you are born and when you will die—the entire life in this world; the second *Bardo* of dreams. It is the gap when you start dreaming, and the moment you wake up—the period of being virtually active; the third *Bardo* of meditation. It is the gap when a meditator starts a meditation session and all the experiences during concentration; the fourth *Bardo* of the moment of death; the fifth *Bardo* of the luminosity of the true nature; and the sixth *Bardo* of becoming for the next life.

According to Buddhism, we are made of the five elements: wind, earth, water, fire, and space. The dissolution of these five elements occurs, marking the fourth *bardo* of the moment of death. At this stage, a dying person goes through different experiences during this period until the final death (Khyentse 2011b-2011m):

- Dissolution of wind element: loss of appetite and body warmth,
- Dissolution of earth element: the body feels heavy and asks to lift the body,
- Dissolution of water element: drying of body moisture and feeling nervous and irritated,
- Dissolution of fire element: fading of body warmth and breathing becomes chilly,
- Dissolution of wind element: choking and long and noisy breathing,
- Dissolution of consciousness: the outer breathing sops (clinical death), and
- Appearance of luminosity: meeting of a white drop falling from the head, and the red drop is rising from the navel—both meeting at the center of the heart giving rise to the appearance of luminosity.

The luminosity is the true nature of our mind. The great Dudjom Rinpoche explains that when a practitioner achieved stability in recognizing luminosity during meditation and can recognize it during the fourth *bardo*, the liberation is achieved (Rinpoche 2003, 66-67). But this is not easy to accomplish, possible only by a very few excellent practitioners having many years of meditation

practice. Also, in this lifetime, if you have a strong propensity for anger, the negative emotion may well continue into the next life; likewise, the positive memory of love and compassion practiced in meditation will remain intact in the next life as well (Khyentse 2018, 93).

After passing through the *Bardo* of the moment of death, the person enters the *Bardo* of the luminosity of the true nature. In the next twelve days, the peaceful and wrathful deities of the five Buddha families manifest themselves. The five Buddha families are:

1. Buddha Vairocana: appearing in white representing ignorance,
2. Buddha Aksobhya: appearing in blue representing hatred,
3. Buddha Ratnasambhava: appearing in yellow representing pride,
4. Buddha Amitabha: appearing in red representing desire, and
5. Buddha Amoghasiddhi: appearing in green representing envy.

With the most incredible compassion, all the Buddha families appear in peaceful forms with their retinue to remind the *bardo* being to recognize all the projected emotions as the projection of their own mind. Unable to recognize the peaceful forms, all the Buddha families once again appear in different colors but now in wrathful forms (Herukas) with their respective entourage to once again remind the *bardo* being to recognize them. In essence, the peaceful deities represent fear and wrathful deities, hope (Fremantle and Trungpa, 1987, p. 26). To familiarize and aid practitioners to recognize them in the *bardo*, these Buddha families are depicted in many of Tibetan religious paintings (Tib. *thangka*) and sacred dances (Tib. *cham*) performed in monasteries.

The first three weeks are crucial because the deceased has the same perceptions as they had during living (Rinpoche 2003, 72). During this *bardo*, Guru Rinpoche advises a *bardo* being to recognize every experience as a projection of one's mind, to develop faith in the Buddhas, and pray to all the Buddhas with complete devotion.

The thirteenth day marks the beginning of the *Bardo* of becoming for the next life until forty-nine days. In this period, the *bardo* being is dictated by the law of karma that drives them to their next life. The causes and conditions of our past life will determine the future result of the next rebirth. Even during this challenging time, Guru Rinpoche advises to call out to the gurus or the Buddha or the three jewels or remember the good merits in the previous life to remind oneself that all phenomena are just a projection of one's mind. The *bardo* being should try to be reborn in the upper realms (gods, asura, and human) and avoid to lower three realms (animal, hell, and ghost). To a Buddhist, human rebirth is the most precious because it offers the most optimal causes and conditions for practicing the Buddha Dharma. Overall, Guru Rinpoche always advised remembering the teachings of “*The Bardo Thodol*” during all the six *bardos*.

Out of six *Bardos*, the first three are about the practices meant for when we are alive. Only through meditation, a Buddhist practitioner can realize the true nature of mind. So that at death, one can recognize all sounds and images as mirage or projections of our minds—nothing more and nothing less.

The details of different practices in the book are beyond the scope of this article. If you are interested to learn more and can read Tibetan, “*The Bardo Thodol*” by Karma Lingpa is an excellent guide. For English readers, amongst many, there are some fine reference books such as “*The Tibetan Book of the Dead: The Great Liberation Through Hearing in the Bardo*” by Chögyam Trungpa Rinpoche and “*Living and Dying: How to Prepare for Dying, Death and Beyond*” by Dzongsar Jamyang Khyentse Rinpoche.

***The Bardo Thodol* is more about living consciously**

The moment of death offers excellent potential to be liberated because a *bardo* being experiences the pure Buddha-nature, and liberation is achieved upon recognition (Khyentse 2018, 51-52). This feat is only possible if, during the time of living, one has often meditated consciously, diligently, and as a

result, not only recognized the true nature of mind but also persistently familiarized with it throughout life.

One method of living consciously is also by convincing yourself that you are dying every moment—being conscious of it. Death is not a one-time event instead of an ongoing process that is happening even when I am writing this article. Because of its quietness and subtlety, often, it gets ignored or evades the radar of our attention. Desired or undesired, it will continue to occur.

Becoming conscious of this process will help us make the best of our time in this world, be it with your family, friends, or colleagues. Aware that you will die alone and naked will also help to see the illusory nature of our existence. In Buddhism, death is just the end of the physical body but not of our mind. It will continue its journey into the different phases of *bardo* before taking a rebirth. This recognition will offer another perspective to living a conscious, meaningful life.

Being conscious of the ongoing process of death and the aim of getting liberated during the *bardos* has the potential to incite a seeking of a Buddhist path that offers methods to recognize the true nature of mind and to get accustomed to it through diligent practice.

Death is a great teacher

You feel very sad when death happens to your loved ones, and when you see the dead bodies, it becomes so unbearable.

You become speechless and numb, realizing that you can never speak to them and share your emotions again. A moment of truth prevails: recognizing the importance of sharing your thoughts with your loved ones while they are still alive is more urgent than regretting over the missed opportunities when they are dead. Sharing your compassion and love has more significant meaning than living with tormented memories.

Acknowledging that we are dying every second is a good starting point. Even more important is remembering the love, care, affection, and compassion that our parents bestowed upon us since we were toddlers. When they become old and still alive, reciprocate them with more love and compassion. Visit them in care or nursing homes and present them with flowers and chocolates and have lunch or dinner with them. Say to them how important they are in your lives and how much you appreciate and love them. Make them feel precious even when they are old and helpless. In this way, you can transform the inevitable death into powerful practical compassion of conscious living.

Conclusions

Death will come to everyone irrespective of age or social status, as the one thing that is true since our birth. In the book of *The Bardo Thodol*, birth is the beginning of the dying process. Realizing and remembering it throughout our lives is one of the central teachings of this practice.

When a person is clinically dead, it is not the end but a beginning of a journey into the three latter *bardos* until the time of rebirth, which marks a start to the whole cycle of the six *Bardos*. While being alive, we must practice the Dharma to realize the true nature of our empty mind. Make this realization as part of our thinking and habit. When death comes, we will recognize this true nature of mind when revealed to our unobstructed awareness during the *Bardo* of death and the *Bardo* of luminosity. Upon recognition and be able to meditate upon will bring about liberation. Guru Rinpoche teaches us to contemplate not only about dying consciously but also about living a conscious, meaningful life.

Acknowledgment

This article is part of the book that the author currently is completing for publication in 2021. The book's topics include blessings in Vajrayana. The book will tell you much more about Buddhism

and the four truths, Dzogchen and Guru Rinpoche, meditation and Guru Yoga, and treasure teachings and *The Bardo Thodol*.

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Ernesto De Martino: The Reform of Ethnological Studies

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ABSTRACT: De Martino's work and his way of thinking gather together the innovative force of a scholar who has managed, without any doubt, to bring about a revolution in the ways of ethnological and anthropological research. Initially disputed, De Martino was later rediscovered due to some favorable trends of cultural interest. He is, therefore, responsible for creating a complex mechanism of thorough study, analysis, understanding and valorification of the traditional social frameworks which are, after all, the origins of European culture. In fact, the capacity of traditional societies to stand up to the ordinary, to confront the present and the ways they have secured their constant presence throughout generations isn't only through the systematic and sometimes agonizing effort of subsisting, but also due to the existence of those cultural frameworks which represent the means of survival when it comes to mentalities, social rapports and psychological representations. In De Martino's understanding of the myth, which he designates as the symbolic substance of cultural rite and an instrument used for transcending the limit: „namely, a critical moment for the existence on which weighs the extreme risk of the collapse of the ethos of transcendence and, therefore, that of presence”, and will „also reveal the horizon that recovers this risk, a conversion of the annihilation of presence and its reintegration into simply being”, such we may understand how is actually presents a double transcendence where the rite alters the cultural norm, expressing a „history of origins” related to the moment of crisis.

KEYWORDS: revaluation, continuity, research, motives, philosophy

Introduction

In De Martino's terms, “each moment from the day to day life, from birth and until death and in every civilization, is a critical moment from an abstract point of view”. Therefore, the cultural norm encompasses the entire human existence, during which the critical moments can be distinguished, so called “fundamental elements” that De Martino relates to the entire moment of becoming: „there is the possibility of a radical crisis, and this fatal existential misery can manifest itself by dragging us into nothingness even before physical death reaches us, and that misery is a much greater catastrophe than death”.

Being, as shown, substantially related to the very structure of being, the myth can be accessed via the mythical narrative. There can be found multiple aspects pertaining to human life and, therefore, of nature, aspects that most often remain hidden from a normal glance. De Martino remarks this concept's significance, especially in terms of the most importance function that the myth brings around: a link between divinity and man as a constitutive factor of a community's ethos. As such, a community is the place where traditions and rituals develop in a way that can tell us a lot about the structure of the human unconscious. Moreover, the myth becomes an important factor in the discovery of human aspirations in various fields such as art, literature, music, rituals. This furthermore proves why De Martino recognizes its universality, even in light of its multiple forms and, later on, metamorphoses. The myth presents both the cultural rituals and the tools used for overcoming existential and natural limits, especially when used with the precise function of breaking down cultural norms in history.

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De Martino wishes to secure a certainty of permanence in his works, and therefore concludes: “The study aims to reconsider, through a more mature perspective, the *Il mondo magico* theme

(the risk of non-existence, from a cultural aspect or otherwise), a *Morte e pianto ritualico nel mondo antico* themes (the crisis of mourning pertaining to the ancient world or to the Christian civilization), the ethnographic research in Southern Italy (the unexpected return of the painful past in *Il mondo del rimorso* and the overcoming of limits with which Christ went beyond Eboli in *Sud e magia*)”.

Besides the aforementioned, some motives from *Naturalismo e storicismo in etnologia* can also be identified within this work, especially regarding the issue of an ethnology that analyzes Western civilization and which, therefore, is guided by the fundamental criterion of critical ethnocentrism (De Martino 2002, 5-6).

He re-evaluates and reinterprets his own work, being truly fastidious about it: not only a re-examination of his studies, *La fine del mondo* proves to be an assessment rising to the level of his previous ones. Said work had given him an analysis also found in other works such as *Apocalissi culturali e apocalissi psicopatologiche* (De Martino 1964, 105-141).

Therefore, de Martino is verifying his research to see its contribution in his actual project. He's interested in the theme of the wandering self and the world's domesticity from *Il mondo magico* (De Martino 1948) translated into reality from potential risk. Another theme: that of the painfulness of passing time and a past returned in an encoded form can be discovered by re-examining “The land of remorse” (De Martino 1961), then, by an eloquent reading of *Sud e Magia* (De Martino 1959), where the city Eboli separates two different realities (being the place where the Occidental culture ends and another one begins, one that left many unanswered questions, these empty spaces being filled by Magism). Concerning the forming of Europe's identity, the South of Italy contributed mildly to the cultural processes that took place over the years. So, from de Martino's point of view, the distancing of the south from the Occident's history has had the effect of reducing the Occidental civilisation's ways of parting, that which have their place on the bourgeoisie's apocalypse. Having a dialogue with himself, de Martino is reappraising his work by looking into the past and finding an internal cohesion of substance coming from his intellectual path, the result of a cognitive research. Just like in the process of assembling a puzzle, every examined essay has its own contribution, *La fine del mondo* being remade piece by piece. Stains of the end appear all over, either under the threat of “no compensation” that leads to the finishing point of cultural order, either a risk that, thanks to the mythic and ritualic strategies, can be re-established. The text *Morte e pianto ritualico* (De Martino 1958) focuses on the theme of the crisis of mourning that contains the biggest risk of “dying with the one who has already died”.

It is to be observed the complexity of the methodological and technical apparatus used as a comparison criterion between the hours of the past and the unfinished project, *La fine del mondo*, clearly noting the distance that separates them. The meaning of his works is re-identified through this more detailed, mature research, even if his past essays had not dealt with the issue of the apocalypse. Thus, de Martino wishes to innovate and advance in the field while researching the apocalypse and retrospectively examining his works.

In order to establish a balance, to place the discontinuity in continuity, he foresaw the importance of his research process, namely an awareness of the fact that a change was needed in the ways he perceived the self, or, at least, in his portrayal of the self.

Naturalismo e storicismo in etnologia (De Martino 1941) represents the work where de Martino recognizes the core of epistemological reflection, which makes of ethnology an instrument through which he understands the other and re-understands himself in relation to such otherness. He chooses, as the object of comparative analysis, the apocalyptic dimension in all its forms, or the “acute feeling of the end”.

By questioning the internal coherence of his work, de Martino seems to have anticipated what discussions might have taken place around his unfinished work, thus wishing to make a “contribution to the critique of his own work”. The unity of his thinking process was questioned after the publication of *La fine del mondo* in 1977. Therefore, according to Lanternari, de

Martino's posthumous work represents a not exactly positive turning point, even if it is to be appreciated that it develops a wider and deeper historical-cultural comparativism. Vitorio Lanternari's views are expressed in the 1978 essay, *History and Ontology. On "The End of the World"* (Lanternari 1978, 187-200). A plan to find a way to confront the critical nodes of contemporary bourgeois society was in the making, all with the help of ethnographic humanism. De Martino's project is not entirely convincing, so he closes up onto his most successful work, *The Great Triad on Southern Italy*: "Morte e pianto italico", "Sud e magia" and "La terra del rimorso". Lanternari finds a moment of substantial discontinuity in *La fine del mondo*. As such, the work represents an opportunity to reconsider the theoretical, excessively psychological formulations of *Il mondo magico*. He notices another side of de Martino's here, a duller one at that, yet acknowledges certain merits. He does not stop at identifying the formulative break from other research projects of the 50s and 60s and describes the structure of *La fine del mondo* as not convincing enough.

De Martino's dialogue with the most important representatives of contemporary culture is very suggestive, but he does not acknowledge the errors of his "constitutive ambiguity". Lanternari observes the work's imperfect internal coherence generated by an epistemological incongruity identifies a clear limit of the work in it and makes him refer to a "conscious irrationalism". These aspects would have forced absolute historicism to almost annul it in an impossible synthesis with the universalizing ontologism or existentialist psychologism that thematizes the constitutive precariousness of the human presence, all in a precarious balance between the risk of extinction and the possibility of reaffirmation.

Such an effort or attempt at synthesis has a negative future effect, consisting in a methodological distortion coming from a not exactly rigorous distinction of the "Erleben" and "Verstehen" plans, namely between the contents of the research phenomenon and the research principles and methodology, according to Lanternari. Over time, such valuable judgments have conditioned the approach to de Martino's philosophy and works, obstructing the re-edition of the work *La fine del mondo*, as being expressed by the greatest critics.

However, the posthumous work arouses more and more the interest of the public, more exactly researchers, students, the author being the subject of an important research that resized his image and allowed the understanding of his thinking and work.

The publication of special theoretical texts in *Storia e metastoria*, Gennaro Sasso's book *Ernesto de Martino between religion and philosophy*, the republishing of the volume *Furore simbolo valore*, as well as the 1995 conference in Rome and Naples entitled "Ernesto de Martino in European culture" constitute other very meaningful moments. Worth to be mentioned is the republishing of the work *La fine del mondo*, which arouses our curiosity to know the philosophy of the great researcher. Reread 25 years after its publication, the work relates it to all the artistic, literary, philosophical currents of twentieth-century Europe, as Marcello Massenzio notes in the introduction to the chapter written with the help of Clara Gallini.

The author is reflecting upon the meaning which he follows to attribute to the rapport between psychology, the history of religions and psychopathology. In Massenzio's analysis there are two important aspects to be noticed: the identification of a substantial continuity of his entire creation and also, the thematization of conceptual coherency in "La fine del mondo". He notices an unprecedented conceptual cohesion in most artworks, excepting the ones left unfinished. The variety of artworks represent important pieces of a rigorously assembled picture which compose the entirety of his writings, and by no means loose fragments, the premise being represented by the new implementing of the comparative method and the final aim being that of identification. This allows the author to notice the diverse relationships between materials that originate from not at all heterogeneous mediums, restructuring them in a speech with an engrossing subject and a quite wide variety. The method used by the researcher, as stated by Massenzio, is *La fine del mondo's* factor of unity, an element which attributes continuity to this

demartinian intellectual alignment, but also discontinuity. This “comparative method” has also piqued the interest of Raffaele Pettazzoni, historical comparativism becoming, in his vision, the nucleus of self-founded historical and religious discipline. De Martino subsequently adopted it, with his poignant essay “Storicismo e irrazionalismo nella storia delle religioni” which enlarges the comparative field to information offered by psychopathology, the goal being the amendment of the process of sacral genesis.

While for Lanternari the elements of continuity come second vis-à-vis the revealed aspects of discontinuity, for Massenzio, the present moments of discontinuity do not alter that unity of the Demartinian intellectual path in the hypostasis of enlarging the research horizon.

The idea of reevaluation, re-examination of the work, representing the beginning of the present analysis, despite the fact that he examined autonomous writings, finds a supporter in the result presented by Massenzio as a result of his own research.

Conclusion

De Martino’s most important field research was made on the subject of tarantism in the region of Salento, Lecce, which bore the volume *La terra del rimorso*. The team chosen by De Martino includes specialists from various fields, and with the research time being quite limited, the team starts by documenting the time and place of the first descent into the field, namely, the chapel in Galatina. The subjects and the informants are identified they are visited in order to obtain their and their family’s consent, the research in Salento representing a framework drawn precisely and professionally.

Another research, this one on magic and witchcraft, gave rise to the volume *Sud e Magia*, the result of the same research carried out by De Martino and his team in Lucania. The study of magic begins in 1950, the texts are collected in 1952 and the field research extends over a period of more than 11 years. In addition to important research conducted in southern Italy there is also interest in the Emilia Romagna region, De Martino conducts short-term research in Ravenna, Reggio Emilia and Conselice, these having as a theme the workers’ songs of social nature, having as a result the article “Il folklore progressivo Emiliano” (theory of the use of oral sources in historiography).

In de Martino’s works it is to be noticed a clear evolution of concepts, as he initially dismantled various theories belonging to the myth, theories that he later reinterpreted. Thus, while dealing with myths that are part of the Italian cultural heritage and national identity, de Martino discovers the sacred, but also the persistence of the European ancient culture.

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COVID-19 Crisis Economic

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ABSTRACT: The currently ongoing novel Coronavirus-crisis is an external shock coming down on society with direct impact on societal moods and subsequently connected economic changes. With growing digitalization and quickening of transfer speed, information exchange in the individual involvement to break trends online on a global scale may impose unknown systemic risks in causing social volatility in international economics. Research may explore how human beings' communication and interaction results in socially constructed volatility that echoes in economic correlates. This paper theoretically covers the history of heterodox economic cycles in order to then propose to explore the role of communication and temporal foci in pandemic communication to create social volatility underlying economic downturns.

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

Introduction

Globalization led to an intricate set of interactions between individuals, organizations and states (Centeno & Cohen 2010). Unprecedented global interaction possibilities have made communication more complex than ever before as the whole has different properties than the sum of its increasing diversified, global and instantly offered information parts (Centeno et al. 2013). In the recent decade, data transfer and exchange online to create news increased qualitatively and quantitatively (Puaschunder 2017f). The reaping of surplus value from big data analyses and targeted online advertisement skyrocketed (Puaschunder 2017c, d). With growing digitalization and quickening of transfer speed, information exchange in the individual involvement to break trends online on a global scale may impose unknown systemic risks in causing social volatility in international economics (Beerbaum & Puaschunder 2019e, f).

In a socially-distanced COVID-19 world, we have become virtually closer and digitally more connected than ever before. But today's digital collective interaction effects may at the same time lead to hard-to-foreseeable fallacy of composition downfalls. Historical time perceptions of capitalism vary. A quantification of the qualitative use of time in language may help objectify the structure of capitalism (Lee 1997). Emergent risks in emotional reactions to information and collective moods triggered by online media news races appear to imbue social volatility into global economic systems (Centeno et al. 2013). The indexal flow of time created in constant instant communication online now is faster than ever before due to constantly overlapping contents and that are formed truly global. Online communication also appears to feature less accuracy checks than previous media forms. Governments seem to have lost their privilege of censorship control, which adds complexity and vulnerability to the building of a collective soul of booms and busts in the digital age (Puaschunder, forthcoming). In all these features of the nature of online communication, new technology advancements may hold public reactions that may underlie the upswing or downturn of crisis dynamics.

In the light of growing data transfer and internet connectivity globalization, the demand for an in-depth understanding of how information echoes in socio-economic correlates gained unprecedented momentum. Social psychology may aid in explaining how social pressures

materialize in economic fallouts. The following paper draws on heterodox economic cycle theories and adds socio-psychological foundations to explain the collective reaction to the current technical communication about economic dynamics. Media information may cause collective moods fueled by redundant and self-reinforcing processes that lack control or censorship in the digital space. Affect and collective moods – in particular anxiety, fear and Angst but also euphoria and hysteresis – may play fundamental roles in consumer-spending and investment decisions. Forward-looking as one is always thinking ahead of oneself or ruminating in fear over the past may shape our economics of choice (Heidegger 1929/63; Setterfield 2020a).

While we have information on the economic fundamentals and physical environment's impact on choices, the role of media information shaping people's economic outlook is missing. Contemporary writings address political, institutional and social processes as makers of crises, yet the role of information for the building of economic moods is completely neglected. Media-driven information races may steer emotions and collective moods that cause systemic behavioral interpretation of an uncertain future that may lead to delayed consumption and spending decisions of individuals, households and firms further exacerbating in collective governmental investment and spending preferences. All these socio-economic impacts of affects and mass communication potentially underlying economic cycles, however, have hardly been described or empirically validated before. New media developments are among those technology innovations that are centered on speed, motion and communication (Lee 2020; Martin 2019).

At the same time, different groups in society may have different outlooks on the same information. While financially skilled parts of the population may experience the COVID-19 economic fallout as an opportunity – given modern finance tools and methods such as shorting, derivatives and diversification – the real economy may hit stronger feelings in the eye of uncertainty given the lower levels of degrees of freedom fueled by low interest rates that incentivized debt cycles for consumer credits (Lee & LiPuma 2004; Lee & Martin 2016).

In seeking to shed light on communication causing implicit system failures but also the potential socio-economic consequences of cumulative moods triggering mass movements that cause economic turmoil; the following paper uncover unexpected dangers and insufficiently described shadows of the invisible hand. The paper thereby adds to heterodox economic theories and behavioral-social psychology aspects of financial crises and economic meltdowns. Most timely capturing the currently ongoing novel Coronavirus pandemic's contemporary *Zeitgeist*, the paper will also address digital technologies' role in the representation and transmission of information creating social volatility (Beerbaum & Puauschunder 2019b; Lee forthcoming). In explaining how communication during times of crises shapes economic fallouts, information transfer's unique impetus in the digital age will be unraveled in order to elucidate how strategic communication can serve as a novel and easily-implementable nudging economic stabilizer.

The following paper thus aims at innovatively painting a novel picture of the mass psychological underpinnings of business cycles based on information flows with particular attention to digital communication. This article will integrate in the contemporary literature on behavioral human decision making the influence of emotions in economic market decisions to then propose how to use targeted media communication to favorable impact economic market choices providing clear communication strategies as clear leadership and followership directives on nudging in the 21st century.

Theory

The theoretical part makes the case of a narrow technical focus on economic fundamentals and mathematical formalizations in classic economics to explain the mechanisms causing economic cycles. Standard heterodox economic cycle theories will be addressed and missing socio-psychological and behavioral group aspects of collective over- and underreaction in markets proposed (Puauschunder 2017b, e). While some information on euphoria is found in the animal spirits

and behavioral finance literature describing overconfidence in markets leading to an overvaluation of assets, overleveraging and underestimation of risk; hardly any empirical studies explain collective panics from a socio-economic or social psychology angle with particular attention to collective moods and affects in the eye of instant communication; indexal flow of time prospects and the group differences of financially skilled and monetary savvy individuals versus real economy employees.

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

The theoretical part will also highlight the uniqueness and differences of the 2019 COVID pandemic economic fallout from the 2008/09 World Financial Recession. While the previous recession was inherent in the system of capitalism and largely played out in financial constraints affecting almost all industries, the novel 2019 COVID pandemic imposes an external shock of time that was fueled by communication and interaction, which differed throughout the world (Martin, 2019). The currently ongoing market communication about the pandemic serves as historic trace, whose conservation offers important insights about how the socio-psychological interpretation of an external shock echoes in economic fundamentals (Puaschunder 2017e).

Heterodox Economic Cycle Theories

Heterodox Economic Cycle theories include Behavioral Economics. Since the end of the 1970ies, Behavioral Economics revolutionized mainstream neo-classical economics and revolutionized decision-making theory. A wide range of psychological, economic and sociological laboratory and field experiments proved human beings deviating from rational choices and standard neo-classical profit maximization axioms to fail to explain how human actually behave (Kahneman & Thaler 1991; Puaschunder 2017a, b). Human beings were found to use heuristics in the day-today decision making (Kahneman & Tversky 1974, 1979).

These mental short cuts enable to cope with information overload in a complex world (Thaler & Sunstein 2008). Bounded rationality stems from uncertainty and information deficiencies in the way we collect, process and use information in our decision making. Decisions are made using only part of the perceivable information (*bounded awareness*) due to mental capacity limitations and biased cognitions (*ethical fading*) (Rawls 1971 in Luf 2008, p. 91; Tversky & Kahneman 1974). While standard microeconomic theory captures exponential temporal discounting to explain rational decision making; behavioral economics finds human time perception biased by heuristics, analogical thinking, and minimized effort (Puaschunder 2020a).

Mental Temporal Accounting is the behavioral economics application of mental accounting in the time domain. One of the most novel implications of heuristics, biases and nudges addresses behavioral finance – a growing field concerned with how to improve financial well-being through the sound understanding of how people actually behave in markets (Puaschunder 2020a). In markets behavioral economics and the behavioral insights extension account for a novel application of political economy. Building on a line of impressive laboratory and field experiment results, what followed in the powerful extension of these behavioral insights in the domains of public administration and public policy making (Puaschunder 2020a). Behavioral economists proposed to nudge and wink citizens to make better choices for them and the community.

Behavioral economists have recently started to nudge people into favorable decision outcomes, offering promising avenues to steer social responsibility in very many different domains, ranging from marketing, corporate governance to public affairs and most recently leadership. Nudges are verbal cues that propose positive reinforcement and indirect suggestions as ways to influence the behavior and decision making of groups or individuals. Most recently, winks were added as nonverbal cues that try to elicit certain acts and choices of humans. Winks are nonverbal cues that try to elicit certain acts and choices of humans. Many different applications of rational and efficient coordination followed ranging from improved organ donations, health, wealth and time management, to name a few (Puaschunder 2020a).

From a political economy perspective, the behavioral insights approach appears to be limited and hold unforeseen risks of social class division in the so-called ‘nudgital’ society (Puaschunder 2020a). Asymmetry of information access but also different affects arising from market communication may fuel economic booms and downturns for various societal groups. While the motivation behind nudging appears as a noble endeavor to foster peoples’ lives around the world with very many different applications (Marglin 1974), the nudging approach raises questions of social hierarchy and class division. The motivating force of the nudgital society may open a gate of exploitation of the populace and – based on privacy infringements – stripping them involuntarily from their own decision power in the shadow of legally-permitted libertarian paternalism and under the cloak of the noble goal of welfare-improving global governance. Nudging enables nudgers to plunder the simple uneducated citizen, who is neither aware of the nudging strategies nor able to oversee the tactics used by the nudgers (Puaschunder 2019a). The nudgers are thereby legally protected by democratically assigned positions they hold or by outsourcing strategies used, in which social media plays a crucial rule (Puaschunder 2020a).

In the digital age, social media revolutionized human communication around the globe, yet also opened opportunities to unprecedentedly reap benefits from information sharing and big data generation. The law of motion of the nudging societies holds an unequal concentration of power of those who have access to compiled data and who abuse their position under the cloak of hidden persuasion and in the shadow of paternalism. In the nudgital society, information, education and differing social classes determine who the nudgers and who the nudged are. Humans end in different silos or bubbles that determine who has power and control and who is deceived and being ruled. The owners of the means of governance are able to reap a surplus value in a hidden persuasion, protected by the legal vacuum to curb libertarian paternalism, in the moral shadow of the unnoticeable guidance and under the cloak of the presumption that some know what is more rational than others (Camerer, Issacharoff, Loewenstein, O’Donoghue & Rabin 2003). All these features lead to an unprecedented contemporary class struggle between the nudgers (those who nudge) and the nudged (those who are nudged), who are divided by the implicit means of governance in the digital scenery. Behavioral economists give credit to the unplanned, uncoordinated and competitive nature of capitalist production as well as the problem of aggregates deviating from the individual’s choice predictions.

Through capturing the interplay of communication about prospects and the fundamentals of the economy; there is an unprecedentedly described role of information in building and fueling economic booms and downturns. Theoretically, the notion of expectations in classical writings is introduced to then draw on historical foundations in economic analysis as outlined in Anwar Shaikh’s *Theory of Real Competition* (2016) as well as Shaikh’s (2013) formalization of George Soros’ (1994) *Theory of Reflexivity*. Boom and bust patterns will be theoretically described and be argued to have the expected outcomes deviate from the actual path and that the actual path in turn deviates from the underlying fundamentals in reflection of past performances’ prediction corrections (Shaikh, 2013). The impact of central bank forecasting and backtesting is hypothesized to change the actual performance in shaping economic ups and downs.

Puaschunder (2020a) started with representing connections of expectation corrections in backtesting and actual market performance. Opening the black box of deliberately future-oriented

market prospect reporting and the stylized linear time scale in neoclassical economics, challenged economic theory in capturing markets to be disrupted by information shocks. Ptaschunder (2020a) outlined problems with the neoclassical assumption of perfect information and feature inconsistent representations of information by shedding light on imperfections that produce certain types of outcomes in consumption, equilibrium and price. In empirically showing how the market responds to central bank market communications and how market corrections are related to actual market performance in the near future but also backlash to cyclical tendencies in the more distant future, Ptaschunder (2020a) paid attention to temporal heterogeneity, the information blast moment differing from a linear time scale. On a wider scale, Ptaschunder (2020a) painted a picture of markets behaving in line with corrected market predictions. In order to test for the relation of information and expectations on markets shaping prices, information about market projections of a central European central bank was retrieved online.¹ This central bank bi-annually publishes the real Gross National Product (GNP) in percentage changes to the previous year (GNP, *Bruttoinlandsprodukt Veränderung zum Vorjahr in % (real)* in the original) of a central European country for four years – 1 year retroactively, the year in which the report is issued and the prospect of the following year and the 2-year prospect. Ptaschunder (2020a) found retroactive backtesting market corrections are highly significantly positively correlated with the following market performance. Corrections of past periods are positively correlated with current performances in the near future but negatively correlated with future performances in the more distant future. Current period announcements are associated with positive trends in the subsequent period up to half a year after the announcement and negative trends in the period following more than half a year later to a year later. Past market performance shapes the future prospect and expectations about markets. Overall, the history of past predictions and necessary corrections are positively correlated with future market performance for a half year and negatively associated for the period from half a year to a year after the announcement of a market prediction correction.

Research Question

While the 2008/09 World Financial Recession offered some data on the collective souls of economic crunches, the crisis emerged as inherent feature in capitalism with the banking sector downfalls becoming the endogenous crunch factor. But how external influences can come down on society and materialize in an exogenous shock with drastic fallouts in the real economy due to new media coverage, we hardly have any economic model or empirical validation for. The paper will therefore discuss the contemporary divide between economic fundamentals, financial market performance versus the real economy fallout. This analysis will also target at highlighting winning and losing industries only to follow the mandate to find creative strategies how to redistribute the gains of the crisis in order to offset the economic fallout losses in proposed inequality alleviation strategies.

No data existed prior to COVID-19 that was so rich in terms of instant communication, global interconnectivity and computational power to make sense of unprecedentedly big data capacity generated instantaneously and globally. At the same time, the constant informational bombardment of multi-faceted new media tools requires to conserve the fluidly growing ‘now’-driven information overload immediately (Center for Disease Control and Prevention 2020a, b; International Monetary Fund 2020a, b; Sachs et al. 2020; United Nations 2020a, b). The paper will therefore also address the different time prospects and indexal time flow moments financial managers are currently benefiting from at the expense of real economy in combination with positive interest rate advantages the finance world can profit from.

¹ <https://www.oenb.at/Geldpolitik/Konjunktur/prognosen-fuer-oesterreich/gesamtwirtschaftliche-prognose.html>

In the contemporary nudigital society (Puaschunder 2017c, d) big data compilers can also reap a surplus value from selling compiled information (The New York Times, November 14, 2017)² or manipulate vulnerable population segments based on their previously shared information (The Economist, November 4, 2017).³ The subjective additive utility of information-shared tranche-by-tranche over time may underestimate the big data holder's advantage to reap benefits from information shared. Implications lead to open questions about ethics in the information age and recommendations for a reclaiming of the common good of shared knowledge in education about information sharing in the digital age as well as the democratization of information. Challenging contemporary behavioral insights theory aims at fostering a more informed, self-determined and protected digital society in the wish to uphold ethics in the 21st century big data social media era (Beerbaum & Puaschunder 2019b).

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

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

Discussion

The discussion will offer an empirical research prospect. The current COVID-19 pandemic serves as an external shock coming down on society with direct impact on societal moods and subsequently connected economic changes (Puaschunder & Beerbaum, forthcoming; Puaschunder, Gelter & Sharma 2020). Four studies will be proposed in the discussion to explore the role of communication and temporal foci in news (Study 1) to create social volatility underlying economic downturns (Study 2) with attention to international differences (Study 3). The economic consequence of the endogenous crunch of the 2008 World Financial Recession will be compared to the external economic shock of the COVID-19 pandemic in order to retrieve crisis-specific recovery recommendations (Study 4). The research will acknowledge that human beings' communication and interaction result in socially constructed volatility that echoes in economic correlates. In this, the article plays an important role in the evaluation of nudging and its influence on the stability of economic markets and societal systems. Depicting nudging during this unprecedented time of economic change and regulatory reform holds

² https://www.nytimes.com/2017/11/14/business/dealbook/taxing-companies-for-using-our-personal-data.html?ref=collection%2Fsectioncollection%2Fbusiness&action=click&contentCollection=business®ion=stream&module=stream_unit&version=latest&contentPlacement=8&pgtype=sectionfront

³ <https://www.economist.com/news/leaders/21730871-facebook-google-and-twitter-were-supposed-save-politics-good-information-drove-out>

invaluable historic opportunities for leaders on how to strengthen society by nudges but also overcome unknown emergent risks within globalized markets.

In its entirety, this research targets at bestowing market actors with key qualifications to lead and to follow strategically in a complex and digitalizing world. Understanding how the social compound forms economic outcomes promises to explain how market outcomes are developed in society and can be shaped by strategic communication with special attention to new media technologies. Implications will stress how communication can counterweight and alleviate the building of collective moods bleeding into disastrous mass movements causing turmoil in financial market and steering economic fallouts with negative implications for societies' weakest segments. Recommendations how to build stable economic systems by avoiding emergent risks and communicating market prospects favorably may aid envision the fundamental architecture of future more stable markets to be crafted by heterodox economists and off-mainstream public policy experts. A prospective future research outlook and implications will be offered aimed at improving the economic future of society based on strategic communication and emotional assets but also favorable time prospects in our post-COVID-19 world and a transfer of crisis gains to crisis struck parts of the economy.

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