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The Merits of Project-Based Learning to Foster Entrepreneurship Education

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ABSTRACT: Entrepreneurship education affords valuable learning to prepare learners for the world of work, including the potential to reduce youth unemployment. South Africa has one of the highest youth unemployment rates globally, making it imperative to develop and expand entrepreneurship education in its school curriculum. The problem that needed investigation, was how such entrepreneurship education needed to be constructed in projects to benefit learners optimally. Literature indicates that education through entrepreneurship — often scaffolded using project-based learning — is preferred above other approaches. Consumer Studies was identified as the only subject in the South African school curriculum that included significant entrepreneurship education, in the form of an entrepreneurship project. The purpose of the current study was therefore to analyze and evaluate that project for its inclusion of project-based learning principles, to determine its strengths and areas for improvement. The intended aim for the research was to develop recommendations to improve the scaffolding of the project to enhance its focus of education through entrepreneurship. The findings of this research contribute to a better understanding of how entrepreneurship education should be scaffolded and implemented into existing subjects. The significance of the research includes that these findings can be used to inform the development of similar projects in other South African school subjects, consequently contributing to expanding effective entrepreneurship education. In the long term, more learners will then be able to benefit from the valuable learning associated with entrepreneurship education, which includes the potential to reduce youth unemployment in this country.

KEYWORDS: entrepreneurship education, principles, project-based learning, school curriculum, youth unemployment

Background and core concepts

Entrepreneurship education contributes valuable learning to the lives of learners, including economic, social and environmental value. Its economic value is linked to learning that will motivate learners to develop their own opportunities for generating income or employment. Although it is not the panacea to all unemployment woes, entrepreneurship education is widely acknowledged as one approach to ameliorate youth unemployment (Du Toit 2020; Moberg 2014; SAVision2020, 2016). Youth unemployment is a growing problem in many countries, but particularly in South Africa, where an all-time high of 74.7% of youth were unemployed in the first quarter of 2021 (Solidariteit 2021). Yet, entrepreneurship education and entrepreneurial activity is low in South Africa which led to officials demanding practical plans to address this incongruity (SAVision2020 2016). For these reasons, the Department of Basic Education (DBE) adopted a directive named the 'Entrepreneurship in Schools' blueprint initiative (DBE, 2016). This directive has the purpose to explore ways to expand entrepreneurship education into all subjects and across all phases of the South African school curriculum before 2030. The current paper reports on one study which aimed to address this directive.

Entrepreneurship education in the South African school curriculum

Recent in-depth analyses of all high school subjects in South African revealed that few subjects' curricula currently include significant entrepreneurship education (Du Toit and Kempen 2018). Of the few subjects that do include substantial and well-structured entrepreneurship education, the subject Consumer Studies emerged as the most prominent contender for developing learners' entrepreneurial knowledge and skills (Du Toit and Kempen 2018). Consumer Studies is unique in that the subject includes considerable entrepreneurship theory content, which is progressively

scaffolded across all three years of the Further Education and Training (FET) Phase, and which is explicitly linked to practical production (DBE 2011; Du Toit 2020). Practical production in Consumer Studies require that learners are guided in developing, making and marketing food, clothing - or soft-furnishing products (DBE 2011). The Consumer Studies curriculum document states the purpose of the practical production in the subject as “small-scale production, entrepreneurship and marketing of quality products” (DBE 2011, 9), clearly indicating that this subject aims to prepare learners for becoming entrepreneurs, should they choose to do so. In addition, the only example in the South African school curriculum of education through entrepreneurship – the preferred and pre-eminent approach to developing effective entrepreneurship education (Moberg 2014) – is found in the Consumer Studies curriculum, specifically in the form of the Grade 12 Entrepreneurship Project (Du Toit and Kempen 2018).

The Consumer Studies entrepreneurship project contributed to formal school-based assessment in Grade 12 – the exit-level of school learners in South Africa (most learners are around 18 years old at that time) until 2020. Learners were required to construct their projects around entrepreneurship education theory content which they learned in Consumer Studies over the previous two years, such as costing calculations, marketing strategies and several factors that impact the selection of a product for development. Depending on the practical production offered at the school, learners had to develop a marketing plan, and then refine and make an actual product (a food -; clothing - or soft-furnishings item) under examination conditions, as part of developing their idea as an entrepreneurial opportunity (DBE 2011). In some schools, learners even packaged and actually sold the products they developed through the project, which mimics real-life entrepreneurship, albeit without the risks (Du Toit, 2021). Teachers reported that most of their learners enjoyed the project and dedicated significant energy and effort to it, which contributed positively to most learners’ marks (Du Toit 2018). Many Consumer Studies teachers appreciated the valuable real-life entrepreneurship learning that the project contributed to the subject, as well as the intricate combination of knowledge and skills developed therein (Du Toit 2018). For example, during an interview with Consumer Studies teachers from South Africa (Du Toit 2018, raw data), one of the participants stated the following:

“I was very happy with the project that we did, because the project was like a business plan and they [learners] have to choose their recipes and how the target market was set, the type of packaging they use and then the advertising of your product. Step by step for the business to run properly and then you [the learners] calculate your financial pricing at the end of the day. So, I thought that project helped them, step by step how to start your business and at the end to sell it, but it [learners’ products] must be sellable at the end ...”

Yet, despite the unique and valuable potential for education through entrepreneurship that is embedded in the Grade 12 Entrepreneurship Project, this value was disregarded when the project was removed from the curriculum as part of the mandatory curriculum adaptations for Consumer Studies (DBE 2017), with effect from 2020. This means that the valuable entrepreneurship education embedded therein will no longer be offered to learners, many of whom need to be taught how they could overcome their probable unemployment fate (Du Toit 2020; Solidariteit 2021).

To explore how the project could be enhanced to promote its re-introduction into the Consumer Studies curriculum, in adherence to the DBE’s directive (2016) to expand entrepreneurship education in South Africa, it was necessary to understand what the project’s strengths had been, but also in which areas it could be improved. To contribute to constructive education, projects (as part of project-based learning) must be planned and executed efficiently, and are usually underpinned by several principles, as discussed in the next section.

Principles underpinning project-based learning

Problem-based learning and project-based learning are often used as interchangeable terms, with no clear delineation between the two strategies (Shinde, 2014:10). Prince and Felder (2006:130)

however point out that projects include broader learning than problem-based learning, and that project-based learning includes the utilisation and application of knowledge to develop a product. A review of the literature revealed that despite many authors mentioning ‘principles’ of project-based learning, few researchers purposefully and succinctly address or unpack these principles. For example, Shinde (2014, 9) reports three broad “common principles of learning” associated with project-based learning, namely cognitive, content and social. Broadly stated, the cognitive principle is problem-based learning, where addressing the problem structures the learning process. Cognitive principles refer to learning content included in the curriculum, and the links between theory and practice; whereas the principle of social learning emphasises group- or teamwork and the benefits associated with the collaboration and good communications skills developed therein (Shinde 2014).

Thomas (2000, 26) explains ‘principles’ for project-based learning as the conditions and strategies “associated with the successful implementation of project work”. The common principles discussed by Shinde (2014) are considered too broad and general to provide detailed insights into such implementation, consequently literature specifically outlining or listing principles for project-based learning was consulted. A comparison of a few pertinent sources is included in Table 1, showing how divergent these ‘principles’ for project-based learning can be. The principles outlined by Bagheri, Ali, Abdullah, and Daud (2013:9) were deemed to be the most forthright (i.e. not needing further explanation) and are presented in the order in which these authors numbered and listed them. To allow comparison of the principles referred to in the other sources, those sources were presented alphabetically (Markham 2011; Thomas 2000; Tolmay 2017). The principles in each of these last three sources were unpacked in Table 1 to correspond to the principle(s) listed by Bagheri et al. (2013) to which they were most closely (if at all) aligned.

From the comparison in Table 1, it is evident that the principles for project-based learning listed by Bagheri et al. (2013) and Tolmay (2017) are most expansive, but also most similar. In several instances different authors used similar terminology in the descriptions of these principles, for example when they refer to collaboration, facilitation, authenticity, assessment and reflection (Table 1). In contrast, the principles that Markham (2011) originally noted were so dissimilar to most of the principles unpacked by the other authors, that additional brief explanations had to be added to clarify the comparison (Table 1).

Table 1. Comparison of Principles for Project-Based Learning by Different Authors

Bagheri et al. (2013, 19)	Markham (2011, 39)	Thomas (2000, 36)	Tolmay (2017, 28-29)
(1) The organization of learning around real world problems	Identify the challenge	Problems drive students to develop knowledge	Problem-solving is the key driving force
	Craft the driving question		Problem-solving and critical thinking skills developed
(2) Student centered instruction;	Enroll and engage students (include student voice and choice in the project)	Autonomous learning, shifting responsibility to the learner	Students take responsibility and ownership for their own learning
(3) Collaboration;	Facilitate teams (rather than groups)		Communication and collaboration skills must be developed
(4) Teacher as facilitator;	Plan backwards (the process, product, content, and skills)	Coaching without directing	Facilitating learning (rather than teaching)

(5) Authenticity through using authentic materials and audiences		Authentic inquiry	Management of the learning environment (dates, time, resources)
		knowledge construction (vs. transmission)	Application of resources and technologies with some guidance
			Integration and development of knowledge
(6) Formative assessment	Build the assessment (criteria to be determined at start)	Conducting performance-based assessment	Assessment in line with learning outcomes, include peer-assessment
			Evaluation, feedback, and analysis of own achievement
(7) Reflection			Reflection and metacognition embedded in feedback
(8) Production of authentic artifacts	Keep the end in mind (the process and the product)		Supporting the development of a creative and innovative product

The detailed guidance for the learner-centred teaching-learning process, as well as the production of authentic products (or artifacts) as the final outcome of project-based learning (Table 1) underscores its suitability as scaffold for education *through* entrepreneurship. Furthermore, both these approaches focus on not only acquiring knowledge, but on applying and integrating learning (Moberg 2014; Prince and Felder 2006, 130).

Problem statement and purpose of the research

When viewed against the background of (i) the valuable and unique contribution that Consumer Studies made toward entrepreneurship education, particularly in education through entrepreneurship in the project; (ii) the need for entrepreneurship education in South Africa to ameliorate youth unemployment; and (iii) the DBE's directive to expand entrepreneurship education to all subjects at all levels in the school curriculum, the removal of the project from the Consumer Studies curriculum is perplexing. The problem was therefore a lack of insight into and appreciation of the significance of the contribution this project had on developing learners' entrepreneurship education. The purpose of this investigation was firstly to explore how the Consumer Studies entrepreneurship project aligns to project-based principles (in theory and in practice) through analysing and benchmarking the project's content to recommendations published in literature for well-structured projects, in order to identify its strengths, as well as areas for improvement. The second purpose was to develop recommendations for improvement of the project to bolster its re-inclusion in Grade 12 Consumer Studies, as well as to possibly expand the project to other school grades in Consumer Studies to enable more learners to benefit from the associated entrepreneurship learning in the project. The methodological and theoretical approaches utilised for the research is discussed next, followed by discussion of the findings. Thereafter conclusions and recommendations, based on the above-mentioned problem and purpose, and informed by the findings of the investigation, are indicated

Research method

The theoretical lens used for this investigation was constructivism, with a focus on how and which knowledge is included as part of the project. A constructivist worldview supports the development of deeper understanding of the complex world in which participants live and work, based on the interpretation of the interactions between concepts and participants (Creswell 2009, 8). From an epistemological point, the social aspects that impacted the learning context, and that contributed to

which learning (knowledge and skills) was included (or excluded), as well as how those aspects impacted on the type of knowledge that is constructed, were of concern.

An exploratory qualitative case study research design was implemented. The case was bound by subject specification (Consumer Studies) and time: the investigation focussed on particulars directly related to the entrepreneurship project in Consumer Studies just before its discontinuation in 2020. Data were collected using curriculum document analysis, literature review, and questionnaires with open-ended questions. The sets of data were analysed using emergent codes, categories and themes, and were then triangulated to determine the reliability of the findings reported.

As a starting point, the content and project-based nature of the Grade 12 entrepreneurship project, in the document used for its dissemination in 2019, was thematically analysed and compared to findings from the literature about preferred content and scaffolding of project-based learning. The formal documents from the Department of Basic Education for the project (DBE 2012; GPDE 2019) were analysed, and where uncertainties emerged, five Consumer Studies educators were approached for clarification, using purposive sampling. The five educators each have more than 20 years experience of teaching Consumer Studies, have been and are involved in several schools, and are considered subject experts by their peers. These experts were therefore invited to complete a questionnaire with open-ended questions on how the project is implemented in practice. The questionnaire responses provided insights into how the “paper” project was implemented in classrooms. The purpose of this phase of the investigation was to determine the strengths of the project as a contributor to or promotor of effective project-based entrepreneurship education, as well as to identify areas for improvement. Subsequently, recommendations were developed based on the findings from the preceding analyses and comparison. These recommendations are aimed at strengthening the project for future (re-) implementation or potential expansion to other school levels, or even other subjects, in line with the DBE’s directive. In addition, the recommendations serve the purpose of promoting the value that this project can contribute to developing Consumer Studies learners’ entrepreneurship education as part of efforts to ameliorate youth unemployment in South Africa.

Findings and Discussion

The analyses and comparison of the “paper” Consumer Studies project to project-based principles is reported and discussed in combination with the findings from the questionnaires regarding the implementation of the same project in practice. Informed by these two sets of findings, recommendations for improving the scaffolding of the project to enhance its focus of education through entrepreneurship, are made.

Alignment of the Consumer Studies project to project-based learning principles

Document analyses indicated that, despite teachers reporting that provinces used different documents to detail and implement the project, almost all the information in the different project documents were the same. These guiding documents include details and descriptions, as well as mark allocations, for all the required sections of the Grade 12 project (GPDE 2019, 15–20). For the current investigation, the Gauteng project document was selected as representative of the project documents and was used for further analyses.

From the literature review, the principles for project-based learning outlined by Tolmay (2017; Table 1) were found to be the most expansive and detailed. Many similarities exist between his suggestions and those of other authors, therefore his set of 12 principles for project-based learning was used as a benchmark (Table 2) for the Grade 12 entrepreneurship project document analysis and comparison. Likewise, the questionnaire responses from the Consumer Studies teachers about the implementation of the project in practice were thematically analysed for similarities and differences to the principles for project-based learning recommended by

Tolmay (2017). An overview of the main findings and examples of evidence in this regard in included in Table 2. In cases where no evidence of the inclusion of a certain principle was found, those cells are shaded in grey, for ease of differentiation.

The shaded cells (Table 2) afford a clear pattern of the project-based learning principles that are not evident in the Consumer Studies entrepreneurship project, and which therefore need strengthening if it is to be re-implemented in future. Similar omissions occurred in both the intended curriculum (“paper” project documents), as well as in the enacted curriculum (questionnaire responses from teachers about project implementation in practice). Three key omissions emerged from the analyses, namely that (1) a problem was not used to guide the project; (2) that individual work was preferred for learners, resulting in several 21st century skills not being developed in the project; and (3) that assessment was one-sided and lacked depth (Table 2).

Table 2. Comparison of the Entrepreneurship Project to Principles for Project-Based Learning

Principles for project-based learning (Tolmay 2017, 28-29)	Evidence found in the intended (“paper”) project document (GPDE 2019)	Evidence from expert teachers’ responses about the project’s implementation in practice
1. Problem-solving is the key driving force	No reference to problem as core focus of the project	No reference to problem as core focus of the project
2. Problem-solving and critical thinking skills developed	No references to problem-solving or critical thinking skills	No references to problem-solving or critical thinking skills
3. Students take responsibility and ownership for their own learning	The learner must “plan / prepare / research on the topic... do the task according the instructions ... [and] compile a given document” (p 15)	No reference to learners having to take responsibility or ownership for own learning
4. Communication and collaboration skills must be developed	No reference to communication or collaboration skills	No reference to communication or collaboration skills
5. Facilitating learning (rather than teaching)	No reference found to teachers facilitating	“Learners must be guided to choose their own products ...”
6. Management of the learning environment (dates, time, resources)	“No template may be used for the project but only where indicated” (p 15)	“...it is time consuming... I [the teacher] am the one who have to look for magazines, those kids don’t have any means of doing that.”
7. Application of resources and technologies with some guidance	“Enough magazines...Every learner should have a textbook to do the project...” (p 15)	“I explain more or less what we are looking for in the magazines ... I spend a lot of time in guiding them.”
8. Integration and development of knowledge	“Please ensure that the ENTREPRENEUR CONTENT is dealt with before the project is being administered” (p 15)	“...but they can apply the knowledge in that project.”
9. Assessment in line with learning outcomes, include peer-assessment	“Develop an implementation plan for your business according to the attached assessment tool” (p 16)	“Learners who have completed the project ... They put theory into practice, that is why they perform better in the exam.”
	No peer-assessment indicated	No peer-assessment indicated
10. Evaluation, feedback and analysis of own achievement	No reference to learners’ personal evaluation or feedback on own achievement	No reference to learners’ personal evaluation or feedback on own achievement

11. Embed reflection and metacognition in feedback	No reference made to reflection, metacognition, or feedback	No reference made to reflection, metacognition, or feedback
12. Support the development of a creative and innovative product	“learners to be given an opportunity to be creative, use own initiative and express own opinions” (p 15)	“Learners ... creatively come up with their business name, slogan and logo for their business.”

The problem-based requirement for projects were originally included in the teacher training for ‘Projects in Consumer Studies’ when the CAPS curriculum was introduced, stipulating that, as a starting point for projects, teachers must “Identify the topic, and the problem to be solved” (DBE 2012, 6). The problem-based nature of project-based learning serves to guide and structure the learning of content and skills within projects (Bagheri et al. 2013; Thomas 2000; Tolmay 2017) and is therefore vital for inclusion. Although the case study used to introduce the project in the document states that “Your matric farewell is in September. You need to raise money...” (GPDE 2019, 16) as a point of departure, it is not explicitly framed as a problem, which limits the associated benefits of problem-based learning in this project. The lack of developing problem-solving and critical thinking skills in learners which emerged in this study (Table 2) is a direct consequence of not including a key driving problem in the entrepreneurship project.

It further emerged that the development of learners’ communication and collaboration skills, which are both considered important 21st century skills (Moberg 2014; Tolmay 2017), are not explicitly addressed in the entrepreneurship project (Table 2). The Consumer Studies entrepreneurship project endorses individual work (DBE 2011; GPDE 2019), precluding collaboration. Also, except for written work, the project includes no requirement to develop learners’ communication skills – such as verbally presenting their product to potential customers, which is an important principle in project-based learning as well as in entrepreneurship education (Du Toit 2020; Moberg 2014). The lack of collaboration and communication in the project also negatively impacts assessment thereof, as it emerged that no explicit requirement for peer assessment is included in the entrepreneurship project (Table 2). Peer assessment and feedback from peers on processes and products are important scaffolds for learners in project-based learning (Thomas 2000), and contributes to the ideal of learning from mistakes, which is vital in entrepreneurship education (Du Toit 2020; Moberg 2014). Peer assessment and – feedback should therefore be one of the underpinning principles for such learning.

Omitting peer assessment contributes to a one-sided approach to, as well as a lack of depth in, the overall assessment of the entrepreneurship project (Table 2). This finding is informed by the omission of requiring learners to evaluate, comment on, and analyse their own achievement and development in the project; as well as by the absence of a requirement to embed reflection and metacognition in the feedback provided to learners on their project work (Table 2). Feedback is a vital scaffold for project-based learning which can be strengthened through collaboration and carefully planned assessment (Moberg 2014; Thomas 2000). Reflection and metacognition also contribute to developing better entrepreneurial opportunities and products as part of entrepreneurship education (Du Toit 2020) and it should therefore be included as a key principle for the entrepreneurship project.

Notwithstanding the three sets of omitted principles discussed above, the findings show that most of the other principles of project-based learning is clearly indicated and/or implemented in the Consumer Studies entrepreneurship project (Table 2). The management of the learning environment is outlined clearly in the project documents (Table 2), for example, when it states that teachers must “determine which resources will be required to complete the project. Ensure that learners will have access to these resources” (DBE 2012, 6), and teachers report that they go to great lengths to ensure that learners have access to and use the resources needed (Table 2).

Entrepreneurship content knowledge is explicitly included and integrated in the project (Table 2), supporting the application of the learning and contributing to life-long learning (Du Toit 2018; Tolmay 2017), as well as contributing to learners' learning of the content, as evidenced from the remark by one teacher about improved exam performance related to principle 9 (Table 2). The findings therefore confirm that assessment of the project is planned in line with the intended learning content, but not with the intended 21st century skills development. On the other hand, the finding that learners are supported in developing a creative and innovative product – both in the project document and in its implementation in practice – is seen as constructive. Innovation and creativity are vital elements in both project-based learning (Tolmay 2017) as well as in entrepreneurship education (Du Toit 2020), which contributes to learners' positive experience of the learning process, and their potential to develop ideas into successful entrepreneurial opportunities.

Lastly, some contrasting findings emerged between the project document and its implementation regarding the roles of learners and teachers (Table 2). In project-based learning, the teacher should fulfil the role of facilitator (rather than instructor) and learners take more responsibility for their own and self-directed learning in the process (Bagheri et al. 2013; Moberg 2014; Tolmay 2017). Clarifying these roles would ensure that more of the benefits of the learner-centred learning associated with project-based learning reach learners.

Conclusion and recommendations

The analysis of the Consumer Studies entrepreneurship project documentation and feedback on its implementation in practice confirmed that the project holds many benefits for learners. It provides a vehicle for combining learning content and developing skills with real-life application possibilities, making the learning more interesting, memorable and life relevant. In addition, the project provides a unique opportunity for learners to develop insights into how they can develop their ideas into entrepreneurial opportunities, which they could pursue to help them overcome their probable unemployment fate. The potential value of the learning associated with this project, together with its potential to contribute to ameliorating youth unemployment, underscores the need to re-introduce it into Consumer Studies in the South African school curriculum, as well as to expand the inclusion of similar projects into other subjects or school grades. Re-introducing an improved entrepreneurship education project will also contribute positively to address the Department of Basic Education's directive to expand entrepreneurship education in South African schools.

Based on the findings of this study the following recommendations are made to strengthen the Consumer Studies entrepreneurship project:

- Frame and scaffold the project around a problem, to boost the associated benefits with problem-based learning for learners, such as developing problem-solving and critical thinking skills, or addressing life-relevant issues in a structured manner.
- Explicitly incorporate a requirement for some collaboration or teamwork as part of the project to foster the development of 21st century skills such as communication, effective teamwork, peer evaluation and – feedback.
- Expand and deepen the assessment of the project to involve learners more in their own personal development during the project, as well as in the evaluation of the process and product, by requiring reflective and metacognitive feedback, as well as assessment of peer's results.
- Clarify roles of teachers as facilitators to guide the process, and learners as being more responsible for their own learning and development. This will open up opportunities for more innovation and will support the development of critical self-directed learning skills.

References

- Bagheri, M., Ali, W.Z.W., Abdullah, M.C., and Daud, S. 2013. "Effects of project-based learning strategy on self-directed learning skills of educational technology students." *Contemporary Educational Technology* 4(1):15–29.
- Creswell, J.W. 2009. *Research Design. Qualitative, Quantitative and Mixed Methods Approaches*. 3rd Edition. London: SAGE.
- Department of Basic Education, South Africa. 2017. *Strengthening CAPS 2017*. Further Education and Training (FET) Subjects, Grades 10-12. <https://www.education.gov.za>.
- Department of Basic Education, South Africa. 2016. *Entrepreneurship in Schools*. Pretoria: Government Printing Works.
- Department of Basic Education, South Africa. 2012. *Projects in Consumer Studies*. PowerPoint Presentation used at teacher training for the implementation of the CAPS.
- Department of Basic Education, South Africa. 2011. *Curriculum and Assessment Policy Statement*. Further Education and Training Phase, Grades 10-12: Consumer Studies. Pretoria: Government Printing Works.
- Du Toit, A. 2018. "Developing a framework for the effective structuring and implementation of entrepreneurship education in Consumer Studies." PhD Thesis, UNISA, South Africa.
- Du Toit, A., and E.L. Kempen. 2018. "The potential contribution of the intended high school curriculum at exit level to the entrepreneurship education of South African youth." *International Journal of Entrepreneurship* 22(1):1-16.
- Du Toit, A. 2020. "Entrepreneurskapspotensiaal: 'n ontleding van die Suid-Afrikaanse Verbruikerstudie-kurrikulum en -onderwyspraktyke" (Entrepreneurship potential: An analysis of the South African Consumer Studies curriculum and teaching practices). *LitNet Akademies (Opvoedkunde)* 17(2):572–598.
- Du Toit, A. 2021. "Harnessing entrepreneurial elements in Consumer Studies to combat the problem of unemployment in South Africa." *Journal of Consumer Sciences*. (Accepted).
- Gauteng Province Department of Education (GPDE). 2019. *Consumer Studies School-based Assessment (SBA) Guideline*. Grade 12. Author publisher.
- Markham, T. 2011. "Project-based learning. A bridge just far enough." *Teacher Librarian* 39(2):38–42.
- Moberg, K. 2014. "Two approaches to entrepreneurship education: The different effects of education for and through entrepreneurship at the lower secondary level." *The International Journal of Management Education* 12:512–528.
- Prince, M., and R. Felder. 2006. "Inductive teaching and learning methods: Definitions, comparisons, and research bases." *Journal of Engineering Education* 95(2):123–138.
- SAVision2020. 2016. *Global Entrepreneur Monitor Report: An alarmingly low level of entrepreneurial activity in spite of high unemployment*. <http://savision2020.org.za/global-entrepreneur-monitor-report/>.
- Shinde, V.V. 2014. "Design of course level project-based learning models for an Indian engineering institute. An assessment of students' learning experiences and learning outcomes." PhD Thesis, Aalborg University, Denmark.
- Solidariteit. 2021. "Youth unemployment: Government looks on as disaster unfolds." Media release. June 3. <https://solidariteit.co.za/en/youth-unemployment-government-looks-on-as-disasterunfolds/>.
- Thomas, J.W. 2000. "A review of research on project-based learning." http://www.bie.org/index.php/site/RE/pbl_research/29.

Domestic Violence and Principles Introduced by Istanbul Convention

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ABSTRACT: On the issue of combating the insidious and dramatic phenomenon of family and gender violence, Istanbul Convention can be considered the first legally binding instrument in the international context. It introduces a system of rules aimed at protecting women and minors against all forms of violence, which is complete and attentive in terms of promoting the culture of equality, stigmatizing any discrimination based on sex. The objectives of the text have been summarized in the "3 P": "Prevention, Protection of Victims and Prosecution of Offenders". In each of these three areas (prevention, protection of victims, and prosecution of guilty) the Convention indicates various measures of a specific nature that States are called upon to implement.

KEYWORDS: Family Violence, Gender Violence, Prevention, Protection, Prosecution

Introduction

Dysfunctional and pathological behaviors present in family relationships are fully part of the phenomenon of domestic violence, which, according to art. 3 lett. b) of the Istanbul Convention, includes «all acts of physical, sexual, psychological or economic violence that occur within the family or family unit or between current or previous spouses or partners, regardless of whether deeds share or has shared the same residence with the victim».

Istanbul Convention (2011) was adopted by the Council of Europe on 7 April 2011 and opened for signature on 11 May 2011. Italy signed the Convention on 27 September 2012 and the Parliament authorized its ratification with Law 77/2013.

Domestic violence definition is a so-called gender neutral definition (Explanatory Report, April 12, 2011) that includes victims and perpetrators of violent conduct of both sexes, in fact the Convention introduces important innovations not only on the identification of precise actions to combat gender and domestic violence, but also with respect to its scope of application *rationae personae*: the safeguards contained therein are extended to all victims of domestic violence (art. 2 Istanbul Convention), among which are numbered above all children and, albeit rarely, also men.

On the issue of combating the insidious and dramatic phenomenon of family and gender violence, Istanbul Convention can be considered the first legally binding instrument in the international context. It introduces a system of rules aimed at the protection of women and minors against all forms of violence, which is complete and attentive also in terms of promoting the culture of equality, stigmatizing any discrimination based on sex.

The objectives of the text have been summarized in the "3 P": "Prevention, Protection of victims and Prosecution of Offenders"(Interim Report, Strasbourg, 27 May 2009, CAHVIO, 2009, 4 FIN, p. 6 par. 7), to which should be added a fourth P, that of integrated, holistic and coordinated policies, without which the measures to eliminate a such a deep-rooted and complex phenomenon would be unsuccessful and substantially useless.

In each of these three areas (prevention, protection of victims, and prosecution of offenders) the Convention indicates various measures of a specific nature that States are called upon to implement.

First area: Prevention

As regards the first area, that of prevention, it is really important that States take all necessary measures to promote a far-reaching change in the mentality of individuals at all levels, so that the goal of overcoming gender stereotypes (Istanbul Convention art. 12 par. 1) and raising public awareness of the problem of violence and the consequences it generates.

To this end, they must also take preventive measures to ward off violence from occurring, and take positive action to protect people in particularly vulnerable conditions, including pregnant women, mothers of children, children, people with disabilities, migrants, homosexuals, children and elderly (Explanatory Report, April 12, 2011, par. 87).

Another important requirement dictated by the drafters of the Convention is that which requires States to adopt programs and carry out activities aimed at increasing the level of autonomy and emancipation of women at all levels, including the economic and political one.

The goal of these programs is to reach «the hearts and minds of individuals» (Explanatory Report, April 12, 2011, par. 87) who, through their behavior, contribute to the persistence of violence against vulnerable individuals. This is a crucial step that first of all involves the theme of education: no prevention is possible if non-state actors and all segments of society are not included in awareness and information campaigns aimed at averting the danger that certain cultures, religions or traditions can be used to justify acts of violence perpetrated against human beings in a position of greater vulnerability (Istanbul Convention art. 12 par. 5). This implies that gradually the recovery paths aimed at the perpetrators of similar conducts can be accepted with greater availability, because - in a changed cultural scenario - it is highly probable that rehabilitation projects will stop being perceived as afflictive measures and are accepted as a concrete possibility to repair the wounds inflicted on loved ones and consequent social reintegration.

Second area: Protection

The second area of intervention introduced by the Istanbul Convention is that dedicated to protection and support measures in favor of and for victims and witnesses, who must be protected from possible retaliation and helped in the path of existential reconstruction (Explanatory Report, April 12, 2011, par. 110).

Given that the protection measures must be framed within the framework of the instruments for the protection of human rights, they must first of all be structured on an integrated approach that takes into account the relationship between victims, perpetrators of violent acts, children and the social context of reference; and secondly, avoiding secondary victimization.

To do this, it is necessary to ensure cooperation between all competent state bodies (judicial authorities, local and regional authorities, non-governmental organizations) and access to services for the protection of victims (legal, health, psychological, financial, employment services, accommodation, training and education) must be immediate and continuous over time, as well as unhooked and independent of the will of the same to bring criminal proceedings or testify against the perpetrator of the violence.

Furthermore, for the support service to be adequate and effective, States must necessarily establish shelters and first aid centers for women and children who are victims of violence and activate telephone support lines that can operate 24 hours a day, seven days out of seven. The Convention also imposes an obligation on States parties to encourage reporting by witnesses (Istanbul Convention, art. 27), since according to the drafters of the Convention, reporting made by friends, relatives, teachers or neighbors helps to break the silence that often surrounds gender-based violence and domestic violence.

Third area: Prosecution of offenders

The third area, which is that relating to the prosecution of offenders, requires the signatories of the Convention to punish violent conduct with sanctions that are “effective, proportionate and dissuasive” (Eplanatory Report, April 12, 2011, art. 45, par. 1). The same may include deprivation of personal liberty, extradition, loss of parental responsibility, monitoring and observation of the person affected by the measure.

To make the third area concrete it would be necessary to implement global and integrated national policies, in order to act effectively to prevent and eliminate any form of violence in the family and for reasons related to gender. This holistic approach presupposes the creation of a body that guarantees the full and complete collaboration of all those involved in the network for the protection of vulnerable subjects (organizations and institutions, civil society, women's organizations, national and local authorities and regional), calling them to operate within a national action plan.

Criticalities emerged from GREVIO Report

Although Istanbul Convention is the most important instrument in international law to make human rights effective, there is no shortage of critical issues, as emerges from the first report published on 13 January 2020 by GREVIO delegation (Group of experts for monitoring the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence).

GREVIO report (Council of Europe 2020), in addition to the critical remarks that will be taken into account, also contains positive evaluations with respect to some legislative reforms that have allowed the introduction of concrete measures to put an end to violence against women, such as the 2009 legislation against stalking, or Law no. 119/2013, which established the obligation of the authorities to support and promote, in particular through the allocation of financial means, a vast network of victim assistance services. And two other texts were also the object of applause: Legislative Decree no. 80/2015, whose provisions provide for special paid leave for workers who are victims of gender-based violence, and Law no. 4/2018, which contains numerous measures to protect the orphans of a victim of domestic crime.

However - as already mentioned - in recognizing the progress made to concretely implement the principles contained in the Istanbul Convention in Italy, the report underlines that the cause of gender equality still encounters resistance in the country and that a worrying trend is emerging to reinterpret and redirect the notion of gender equality by bringing it back into the context of family policies and the protection of motherhood, thereby neglecting at the same time all the other areas in which the principle of equality would deserve to be affirmed and protected.

In the field of victim protection and assistance, the report believes that national authorities should primarily allocate adequate funding and develop solutions to provide a coordinated and interinstitutional response to violence, based on the strong involvement of local authorities and the participation of all the actors concerned, in particular female NGOs that offer shelters for victims.

Furthermore, those complementary measures, inspired by an approach based on human rights, aimed at filling the gaps in specialized support services for victims of sexual violence, have never been implemented, since the impulse actions indicated in the Convention and directed the establishment of more reception centers for victims of rape or sexual violence.

The report notes further legislative gaps, such as, for example, the absence of effective civil remedies against state authorities that have failed in their duty to take the necessary preventive or protective measures within their competences. Nor have effective decisions

been made on the exercise of the right of custody of children by the abusive parent, with respect to which - it does not seem superfluous to observe it - the best interests of the child in physical and mental integrity should always prevail. On this point, GREVIO expresses concern, given the tendency of the current system to expose both mothers who report and minors involved in similar events to secondary victimization.

If it is true that complaints of violence must be treated with great caution due to the growing and hateful phenomenon of false abuse used as an instrument of revenge against the ex-partner, it is equally true that the system must equip itself with all the tools to recognize the true from the false and grant all the necessary safeguards to the true cases.

Finally, with regard to the right to asylum, the report underlines that the absence of effective procedures for assessing vulnerabilities, which does not allow for the correct identification of victims, can lead to their expulsion or repatriation, in violation of the obligation to non-refoulement. Recent policies aimed at putting an end to rescues at sea and strengthening the deterrence of potential candidates for emigration, associated with the closure of Italian ports for ships carrying migrants rescued at sea, further increase the risk of rejection.

Conclusions

Intrafamilial violence and violence against women appears - in many ways - not only socially accepted, but also institutionalized as a form of expression of the domination of the male gender to be juxtaposed to the role of women still largely characterized by strong elements of social and economic subordination.

And it is here that the role of education goes beyond that of law, presenting itself as the only way to eradicate prejudices and cultural bottlenecks that still crowd various social segments and also the courtrooms, in which trials seem to be held against victims, guilty of having armed the hand of the executioner.

This must be overcome, and the courtrooms must be spaces of protection for victims, not places that do not give justice to those who suffer serious violations of human rights.

References

- Council of Europe. 2020. GREVIO Baseline Evaluation Report, Italy, published on 13 January 2020 by GREVIO delegation (Group of experts for monitoring the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence), <https://rm.coe.int/grevio-report-italy-first-baseline-evaluation/168099724e>.
- Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence. 2011. <https://rm.coe.int/16800d383a>.
- Interim Report, Prevention, protection of victims and conviction of perpetrators of crimes against violence against women, in the Ad Hoc Committee on the prevention and elimination of violence against women and domestic violence (CAHVIO), Strasbourg, 27 May 2009, CAHVIO.
- Istanbul Convention. 2011. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, 7 April 2011.

Positioning Prospective Teachers' Awareness of Classroom Learning Climate: A Critical Literacy Context

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ABSTRACT: The focus of this presentation is primarily related to the second part of a multi-dimensional study that includes a unique pedagogical approach to advance prospective teachers' understanding of critical literacy. The instructional strategy is implemented in a mandatory third-year undergraduate concurrent Education course of study for all students enrolled in the Intermediate/Senior program (qualifications to teach grades 10 to 12). In small groups, the prospective teacher students are required to script and record a video presentation that examines, in a systematic process of case-deconstruction, the effects and outcomes of a case-based dilemma (the course is delivered in Problem-Based Learning (PBL) model that includes a social-constructivist approach to learning). The PBL instructional approach is intended to scaffold prospective teachers' awareness of certain concepts (as will be discussed in the presentation) in the broader context of critical literacy. In turn, the critical literacy framework serves as the conceptual platform that positions prospective teachers to be increasingly aware of the implications on case-based K to 12 students' engagement in classroom learning climates that tolerate anti-intellectualism, conformity, and prejudice.

KEYWORDS: critical literacy, prospective teacher development

Introduction

Case studies contribute to prospective teachers' critical reflection and thinking by encouraging them to consider the implications of theory and practice. In the context of teacher education programs, case studies can be particularly beneficial in prospective teachers' negotiation of the key issues and central developments as they relate to case-subject teaches, students, school administrators, and other stakeholders. Case studies represent an "active pedagogical practice" that enables prospective teachers to better understand the complexities of teaching and learning (Naumes & Naumes 1999, 11; see also, Brown & Kraehe 2010).

As Laskey (2005) states, prospective teachers have apprenticed as students in public-school classrooms over the course of their kindergarten to grade 12 education. There exists ample research that attests to the significance of inviting prospective teachers to reflect critically on their immediate experiences as teacher-education students in the broader context of their prior experiences as students. The Problem Based Learning Model (PBL) discussed in this paper uses a constructivist framework. The case-studies present prospective teachers with opportunities to integrate their new learning with prior experiences and perceptions (Altinyelken, 2011; Chicoine, 2004). In this way, prospective teachers' knowledge is aligned to their own experiences as students and to the social context of the case study (Chaille 2008; Harfitt & Chan 2017). In some respects, this approach is reminiscent of Dewey's learner-centred pedagogical focus (Dewey 1938). The hybrid PBL platform provides an avenue for prospective teachers to consider and examine their perceptions, including their biases and assumptions of the various case-based circumstances (Kroth & Boverie 2000; McGoldrick et al. 2001).

The hybrid Problem-Based Learning (PBL) model is implemented in a third-year course of a teacher education program in a mid-sized university in Canada. It is a six-year concurrent education program of study. It is important to note that the PBL model under discussion is a hybrid of the strategies that were traditionally implemented in medical and legal education

programs (Cherubini 2020). The model's inquiry process contributes to its distinction. The prospective teachers enrolled in the Intermediate/Senior teaching qualification program have the opportunity to exercise their agency as critical independent and collaborative thinkers by determining the specific needs of their case-based learning, outlining the central objectives of each inquiry, consulting external resources to inform their decision-making, and examine multiple perspective and viewpoints. Prospective teachers assume an active role in the process of their own thinking and reasoning about the case-based outcomes and consequences (Cherubini 2019).

Context: A Hybrid Problem-Based Learning Model

The hybrid PBL model presented in this paper enables prospective teachers, as active agents in their own learning, to reflect critically upon the case-based circumstances, the theory learned in their teacher education coursework, and their own perceptions of teaching and learning based on their experiences in public education. Hence, the necessary reflection includes a systematic process where prospective teachers cultivate their thinking to make sense of the case outcomes (see, for example, King 2000; Vijaya Kumari 2014). Prospective teachers can discuss, in organized and timely manner, the emerging themes and developments of each case with their peers (Brooks & Brooks 1999).

As presented in Cherubini (2021), the hybrid PBL model includes a specific implementation process in order for prospective teachers to participate in the respective case-based inquiries. As also discussed in Cherubini (2017), the implementation process can be readily modified to accommodate the various needs of each cohort of students. Each prospective teacher is tasked with the responsibility to, first, individually read the case. They are then invited to note (with little to no consideration for grammar and syntax) the key ideas and possibly even themes that emerge after this preliminary reading. In small groups, each cohort is provided with the necessary time to discuss the ideas and themes of the case-inquiry. In the week between classes, each prospective teacher assumes the responsibility to consult with either a professional educator, a relevant interprofessional, a parent/caregiver of a school-aged student relatively close in age to the case-based student, or two peer-reviewed academic journals relevant to the case inquiry. During the subsequent class, each cohort is provided with the necessary time and space to exchange, consider, and discuss each other's findings and perspectives. This component of the process cannot be rushed as prospective teachers often invest considerable time in discussing the opposing views that surface as they relate to the respective tensions inherent in the case-based dilemmas. These tensions are then discussed, through a planned sequence of instruction, in the context of the professional and ethical responsibilities and expectations of teacher in Ontario (Adoniou & Gallagher 2017; Sachs, no date; Santoro, Reid, Mayer, & Singh 2012).

The PBL accounts for the implications of theory and practice on prospective teachers' learning and recognizes the significance of providing the necessary structure for them to collaborate meaningfully. Since the issues in each of the respective cases vary widely, prospective teachers are required to think critically upon their perspectives and reflect upon their learning through other informed viewpoints. The inquiry process intentionally situates prospective teachers in the professional and ethical tension of each case as it facilitates opportunities for them to reflect upon the respective implications of what they experienced as public-school students, their current learning in the teacher education program, and how they perceive these implications on their eventual practice as teachers (Cherubini 2017).

Theoretical Context

It should be noted that each prospective teacher cohort is responsible for producing a video presentation that explores, discusses, and examines the tensions in a case. By focusing on one

lens (for example, the “Learners” lens considers how case-based learners are treated in different classrooms and their potential to contribute meaningfully to class discussions).

In certain instances, prospective teachers integrate their understanding of the concepts related to successful and nurturing classroom climates to better understand the case complexities (Patrick, Kaplan, & Ryan 2011). Prospective teachers consider various human development theories that point to the significance of students’ interactions with teachers and peers in public schools that, in some instances, can be associated to their academic achievement (Bronfenbrenner & Morris 2006; Greenberg et al. 2003). In the process of examining cases, each prospective teacher cohort considers the nature of the classroom interactions as they impact upon case-based students’ social and academic standing, their classroom behaviour, and emotional and behavioural development (Ingemarson, Rosendahl, Bodin, & Birgegard 2020; Pas et al. 2015; Wang et al. 2016)

Educational Significance: Critical Literacy

Prospective teachers’ participation in the hybrid PBL model under discussion includes a heightened awareness of how nurturing classroom climates contribute to student development. Through the systematic process in place that facilitates peer discussion of competing perspectives, prospective teachers are better positioned to reflect upon how case-based students create meaning from their social interactions in the classroom. Prospective teachers perceive the significance of peer-to-peer and student-teacher professional relationships that can both complement student engagement in their education, as it can contribute to their sense of alienation. The hybrid PBL model facilitates prospective teachers’ understanding of the descriptive definitions of the components related to classroom climate.

Like the context of the preliminary study, prospective teachers develop a greater awareness of the implications of critical literacy on their practice. Hence, for these prospective teacher students, “literacy is about more than reading or writing – it is about how we communicate in society. It is about social practices and relationships, about knowledge, language and culture” (OME Language Document 2006, 3). The case-inquiry process brings to light prospective teachers’ understanding of the adverse effects of anti-intellectualism in classrooms where case-based students discount the value of their learning and do not perceive relevance to the content. Relatedly, prospective teachers discuss and critically examine the consequences of anti-intellectualism on students’ learning and esteem in situations where case-based teachers consider less academically inclined students as incapable of learning abstract concepts and reading sophisticated texts. Prospective teachers understand critical literacy to include the implications related to conformity. The case-inquiry process is instrumental in providing prospective teachers with opportunities to examine the implications on both student learning and teachers’ pedagogy in cases where students do not conform to classroom and school expectations. They struggle with questions about how to maintain respectful peer relationships and a nurturing classroom climate in cases where students refuse to conform to school and/or teacher’s expectations. Quite interestingly, they also wonder about the implications of asking students to conform at the price of their creative expression. Last, the PBL model enables prospective teachers to examine and reflect upon issues of prejudice and intersectionality as they relate to the properties of critical literacy (including social practices and relationships, language, and culture). Here, too, the cases provide opportunities for prospective teachers to think individually and collectively about the challenges of honouring students’ unique identities as individuals and learners. While they understand that each student’s voice is important, the cases present circumstances where voices often intersect and oppose one another. Certainly, prospective teachers can appreciate the significance of dialogue and open communication towards establishing a nurturing learning climate, but they also examine the difficulty of doing so successfully as a beginning teacher.

References

- Adoniou, M., & Gallagher, M. 2017. "Professional standards for teachers-what are they good for?" *Oxford Review of Education* 43(1): 109–126. <https://doi.org/10.1080/03054985.2016.1243522>.
- Altinyelken, H. K. 2011. "Student-centred pedagogy in Turkey: Conceptualisations, interpretations and practices." *Journal of Education Policy* 26(2): 137–160.
- Bronfenbrenner, U., & Morris, P. A. 2006. "The bioecological model of human development." In R. M. Lerner & W. Damon (Eds.), *Handbook of child psychology: Vol. 1. Theoretical models of human development* (6th ed., pp. 793–828). Hoboken, NJ: Wiley.
- Brooks, J. G., & Brooks, M. G. 1999. In search of understanding: The case for constructivist classrooms. ASCD.
- Brown, K. D. & Kraehe, A. M. 2010. "The complexities of teaching the complex: Examining how future educators construct understandings of sociocultural knowledge and schooling." *Educational Studies* 46: 91-115.
- Camburn, E. M., & Han, S. W. 2015. "Infrastructure for teacher reflection and instructional change: An exploratory study." *Journal of Educational Change* 16(4): 511–533.
- Chaillé, C. 2008. *Constructivism across the curriculum in early childhood classrooms: Big ideas as inspiration*. Boston, MA: Pearson and Allyn & Bacon.
- Cherubini, L. 2021. "Positioning Prospective Teachers' Examination of the Hidden Curriculum: A Critical Literacy Context." *Scientia Moralitas Conference Proceedings*, April 18-19, 2021, Washington, DC, USA.
- Cherubini, L. 2020. "A unique hybrid problem-based learning model: Prospective teacher education and development." *Journal of Advances in Education Research* 5(2): 60-69.
- Cherubini, L. 2017. *Case study inquiry seminars: A research-to-practice model*. (Second Edition). Welland, ON: Soleil Publishing. ISBN: 978-1-894935-97-5.
- Cherubini, L. 2019. "Enhancing critical literacy through case-based pedagogy." *Proceedings of the International Conference on Management, Economics and Social Science*, Toronto, ON, 12-16.
- Chicoine, D. 2004. "Ignoring the obvious: A constructivist critique of a traditional teacher education program." *Educational Studies* 36(3): 245-263.
- Dewey, J. 1938. *Experience and education*. New York: Collier Books.
- Garrison, J., Neubert, S., & Reich, K. 2012. *John Dewey's philosophy of education*. US: Palgrave Macmillan.
- Greenberg, M. T., Weissberg, R. P., O'Brien, M. U., Zins, J. E., Fredericks, L., Resnik, H., & Elias, M. J. 2003. "Enhancing school-based prevention and youth development through coordinated social, emotional, and academic learning." *American Psychologist* 58: 466-474. <http://dx.doi.org/10.1037/0003-066X.58.6-7.466>.
- Harfitt, G. J., & Chan, C. 2017. "Constructivist learning theories in teacher education programmes: A pedagogical perspective." In *International handbook of research on teacher education*. SAGE Publisher.
- Ingemarson, M., Rosendahl, I., Bodin, M., & Birgegård, A. 2020. "Teacher's use of praise, clarity of school rules and classroom climate: comparing classroom compositions in terms of disruptive students." *Social Psychology of Education* 23(1): 217–232. <https://doi.org/10.1007/s11218-019-09520-7>.
- King, P. M. 2000. "Learning to make reflective judgements." In *New directions for teaching and learning*, Vol. 82, pp. 15–26. Jossey-Bass Publishers.
- Kroth, M., & Boverie, P. 2000. "Life mission and adult learning." *Adult Education Quarterly* 50(2): 134-149.
- Lasky, S. 2005. "A sociocultural approach to understanding teacher identity, agency and professional vulnerability in context of secondary schooling." *Teaching & Teacher Education* 21: 899–916.
- McGoldrick, T. B., Menschner, E. F., & Pollock, M. L. 2001. "Nurturing the transition from staff nurse to leader." *Holist Nurse Practitioner* 16(1): 16–20.
- Naumes, W. & Naumes, M. 1999. *The art and craft of case writing*. Thousand Oakes, CA: Sage.
- Ontario Ministry of Education. 2006. *The Ontario curriculum, Grades 1-8: Language*. Toronto, ON: Queen's Printer for Ontario.
- Pas, E. T., Cash, A. H., O'Brennan, L., Debnam, K. J., & Bradshaw, C. P. 2015. "Profiles of classroom behavior in high schools: Associations with teacher behavior management strategies and classroom composition." *Journal of School Psychology* 53(2): 137–148.
- Patrick, H., Kaplan, A., & Ryan, A. 2011. "Positive classroom motivational environments: Convergence between mastery goal structure and classroom social climate." *Journal of Educational Psychology* 103(2): 367–382. <https://doi.org/10.1037/a0023311>.
- Sachs. (n.d.). "Teacher professionalism: why are we still talking about it?" *Teachers and Teaching: Theory and Practice* 22(4): 1–13.
- Santoro, N., Reid, J., Mayer, D., & Singh, M. 2012. "Producing 'quality' teachers: the role of teacher professional standards." *Asia-Pacific Journal of Teacher Education* 40(1): 1–3. <https://doi.org/10.1080/1359866X.2012.644508>.
- Vijaya Kumari, S. N. 2014. "Constructivist approach to teacher education: An integrative model for reflective teaching." *Journal on Educational Psychology* 7(4): 31–40.
- Wang, C., Hatzigianni, M., Shahaeian, A., Murray, E., & Harrison, L. J. 2016. "The combined effects of teacher-child and peer relationships on children's social-emotional adjustment." *Journal of School Psychology* 59: 1–11.

Tax Havens - An Insidious Mechanism for Evading Tax Obligations

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ABSTRACT: The development of world trade along with accelerated globalization has an effect not only on economic development or the strengthening of international cooperation, but also facilitated sophisticated mechanisms by which the payment of tax obligations by multinational companies is circumvented. Transfer pricing and tax havens, considered both individual and combined practices, negatively affect a country's ability to implement fiscal policy and improve budget revenue collection capacity. The problem is even greater in the case of states with a fragile economy, where the dynamics of development is vitally related to the elimination of legal, immoral or illegal tax evasion practices. The Transfer pricing mechanism has also been optimized to handle taxable transactions between companies affiliated to a particular group. Multinational companies avoid taxes by overestimating imports and underestimating exports, thus managing to distribute revenues in various regions of the globe that have great tax advantages.

KEYWORDS: tax havens, profit shifting, tax evasion, corporation, fiscal legislation

Introduction

Offshore tax havens are the most used tool to avoid paying taxes and duties due to the state budget, both for individuals and especially for large corporations operating throughout the world. Both actors often take advantage of too lax laws or vulnerabilities in current legal regulations. One of the reasons this is happening is that corporate income tax is not standardized and adapted to the realities that globalization has brought today.

Taxes on turnover, income or profit, universally called “corporate tax” in the corporate language of English origin was designed with the idea that multinationals can be taxed through each subsidiary in which they operate. Today, however, this idea is no longer valid. Large companies, some of them with higher turnover than many states, use lobbyists, lawyers or consultants to outsource their profits to tax havens, where not only are they not taxed, but gain full anonymity.

Results and discussions

There are mainly two techniques used by companies to move their profits to tax havens. The first is the loan between subsidiaries in the same group. Usually, a subsidiary in a country that taxes massive profits such as France accumulates debt by lending to another subsidiary. The goal is to accumulate profit in a state like Luxembourg, considered a tax haven. Luxembourg is a Member State of the European Union that raises suspicions anyway, but loans to countries such as Haiti, Bermuda or the Canary Islands raise even more questions.

In order to avoid the curious eyes of the authorities, the multinationals resort to “transfer pricing”, meaning the price values at which the transactions between companies are performed at intra-group level (Zucman 2017). The manipulation of these transfer prices is more difficult to detect by the authorities and plays a more important role in this technique of avoiding taxation by Member States. Subsidiaries of multinationals located in tax havens charge extremely expensive services for subsidiaries in EU Member States or other countries in the world with high taxes and duties. Theoretically, this technique should be used in accordance with the market price, or with what specialists call “arm’s length price” or “equity

transaction”. But the multitude of daily transactions that sometimes even a single multinational performs makes it downright impossible for authorities to follow the use of this principle in transactions.

In this regard, the case of Bermuda is very eloquent. There are many corporations, especially those in the IT field based in this country, as shown by the “LuxLeaks” or “Paradise Paper” scandals. Bermuda has a 0% profit tax, which means that all these multinationals that charge services to other countries in the group and accumulate a considerable profit margin are exempt from paying taxes. Therefore, the calculations are made so that a large part of the profit reaches these tax havens such as Bermuda (Henry 2016).

1. Tax evasion mechanisms are becoming increasingly sophisticated

The latest international transactions show us a worrying number of such schemes, especially as subsidiaries of companies choose to sell each other trademarks, logos, algorithms or feasibility studies i.e., intellectual property rights that have a market value that is difficult to define. Therefore, it is not very risky for them to manipulate prices and outsource profits. Google, Apple, Samsung can do this very easily, because they work with a lot of software and very few material assets. This is way only a mechanism like the so-called “GAFA tax” can bring the taxation of intangible assets at the same rates as the taxation of fixed assets in accounting.

The losses of national governments caused by the outsourcing of profits to tax havens or the relocation of businesses to states that practice race-to-the-bottom tactics are difficult to quantify. For example, in the case of the US economy corporate profits contributed as much as 14.5% to US national income in 2015. About one-third of that percentage is made up of foreign companies owned by U.S. residents who do business outside the United States or foreign residents who do business in the United States.

If we dig a little deeper to find where this money comes from, we will discover countries and jurisdictions like the Netherlands, Bermuda, Luxembourg, Ireland, Singapore and Switzerland. But if we look at the economic specifics of these countries, we see that the manufacturing industries that could generate such gains are not present. Also, the number of workers in these tax havens is small. Therefore, these states are clearly becoming a shield to avoid paying taxes in the countries of origin (Crivelli, de Mooij, and Keen 2015). The use of these tax havens began in the 1980s and saw a significant boom after the 2008 economic crisis.

According to estimates, such practices deprive the United States government of more than \$ 130 billion annually, while reported in 2019 a presumptive loss of about 75 billion Euros. We can extrapolate and make similar calculations for other states, thus seeing how much money national budgets lose. This is also the reason why fiscal safe havens topic is gaining political traction, since the stake is money that could be used for social programs and policies. It is difficult to estimate when the government loses the most, when is deprived of these taxes or when promotes zero taxation. What is certain is that multinationals have the most to gain.

Also, it should be considered that the United States has a special policy that provides incentives to repatriate profits. In 2004, the US Congress decided to offer a so-called “tax holiday”, taxing with a preferential tax of only 5.25% the multinationals that decided to bring their profits back to the US. The move was believed to bring a lot of money to the US state budget and boost unemployment, investment and the research and development sector. This was not the case at all, and the share of outsourced profits in tax havens increased.

On the other hand, there are countries like France that tax the profits and work of companies extremely high. Much of Google’s profit in Bermuda should be taxed in France and Germany. But in these countries, the cost of taxes would greatly reduce tech giant’s

profits. Actually, it was precisely these policies and tactics that led Emmanuel Macron to so insistently demand the “GAFA tax” in the Council of the European Union and often summon Mark Zuckerberg to report to the European institutions.

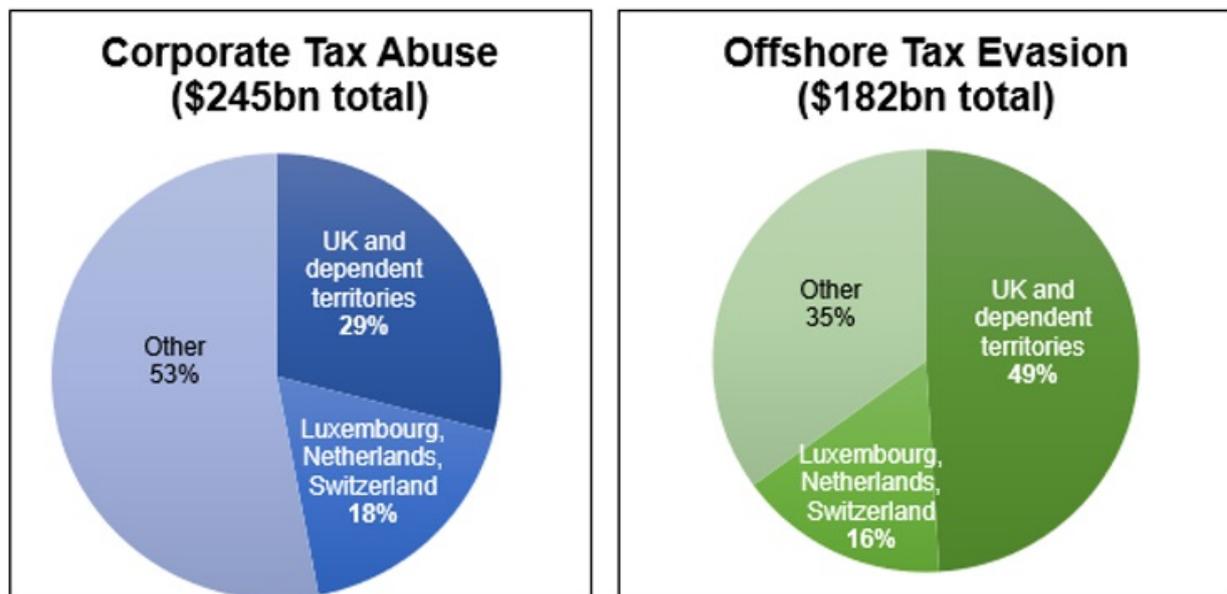


Figure 1. Countries responsible for global tax abuses (left chart).
The State of Tax Justice 2020 (right chart)

Source: <https://theconversation.com/how-global-tax-dodging-costs-lives-new-research-shows-a-direct-link-to-increased-death-rates-152275>

With or without incentives, it is certain that multinationals choose to use tax havens to buy companies, guarantee loans, finance investments or even pay employees, without the governments where they operate making any profit.

Another scenario considered is the use of existing profits in tax havens to merge with foreign companies in states with “race-to-the-bottom” policy. This changes the tax residence of companies and avoids national taxation in what economists call the tax reversal process. Reversing the corporate tax actually means that a parent company is taken over by a “parent”, so that it becomes a subsidiary of the company with which it merges, thus moving its tax residence to the foreign country (Cobham 2018).

A direct and natural consequence of these movements is a decline in the payment of taxes and income taxes. Although the tax base is constantly growing, taxes and fees paid by multinationals in the countries where they operate are declining (Weichenrieder A.J., Xu, F. 2019). A political priority of each government is to increase the capacity to collect taxes and prevent tax evasion. The problem with the same governments is that the evasion methods are in a grey area, not specifically regulated, thus allowing movements such as those mentioned below and reducing the percentage of collection in the state budget.

Of course, the decrease in the budget collection of corporate taxes and duties is also due to the fiscal incentives or exemptions that governments practice from time to time. It is also due to legislation that allows the deduction of corporate tax conditional on other economic and social activities. There are economic sectors, such as the IT sector in Romania, which brings great added value to the economy and is exempt from paying many taxes and duties. But structurally, tax avoidance is conducted through tax havens or jurisdictions allowing race-to-the-bottom mechanisms.

These evasive tactics practiced by multinationals not only harm the societies where these multinationals are present, but also cause significant disruptions to macroeconomic

statistics, which thus lose their relevance. Take Ireland, for example, where multinationals import at very low prices and export at artificially high prices in transactions with jurisdictions such as the Isle of Man. This translates into an artificially increased trade surplus for Ireland, which is not a competitive economic advantage at all. All the benefit is transferred to the business owners (Ozili P.K. 2019). The manipulation of transfer prices increases the share capital of companies in sectors with intangible assets.

Therefore, the efforts of governments and international institutions are directed towards trying to regulate these unfair practices of multinationals. Lately, efforts have focused on regulating “price transfer” practices. But the actions of multinationals to avoid taxes seem to be intensifying. So, the institutional actions in addressing this issue do not seem to be working at the moment. This is because just as any criminal is before the police, so too will multinationals always find a way to circumvent the law.

Large multinationals have more financial and tax departments than many nations do. Politicians say higher budgets for tax fraud investigation departments would lead to a decline in these practices. But experts warn that this will only lead multinationals to spend more money and find new ways to avoid paying taxes. However, a capital reform of the profit tax is needed (Nebus 2019). We can start in this attempt from examples of good practice and from the governance of multinational companies that act in good faith and leave a correct socio-economic imprint in the countries where they operate. For example, in order to allocate profit to different subsidiaries, different indicators can be taken into account, such as sales volume, capital or employment rate. Basically, if PepsiCo has half of its sales, capital and workers in Italy, then half of its profit must be taxed in Italy (Cobham, Alex, and Petr Janský. 2017).

In a perfect situation, this formula should be designed in such a way that the profit cannot be outsourced or manipulated. Sales volume is an indicator that can be used in this regard. Another is the number of direct transactions with customers, because they cannot be moved from Belgium to the Canary Islands. It is important that the profit is shared correctly between different states, in order to allow national legislation to tax it.

Such a model would bring more predictability to global taxation. Starting from a central status of a multinational, such a model would consolidate the profits of corporations and distribute the profit fairly and equitably, depending on the profitability of each subsidiary. The practice would make the outsourcing of profits meaningless, and governments would bring more money into national budgets (Spire 2018). Even multinationals could win, because they would not have to pay hard-earned specialists to think these financial engineers. Even if their earnings are much lower than the earnings, they register by the practice of moving their profits to tax havens.

There are still several regional systems that operate according to the principles described earlier. The US federal government calculates companies' profits nationwide, and then assigns them to different states using a specific formula. Afterwards, each state sets the level of taxation.

At European level, the European Commission has proposed the Directives on the Common Corporate Tax Base (CCTB) and the Common Consolidated Corporate Tax Base (CCCTB), which contains a formula for taxing multinationals according to different criteria. The purpose of the Directives is to punish, along with other instruments, tax havens and to encourage large corporations to declare their profits in the states where they operate. However, many of these steps remain optional, so it will take a long time for the new European regulations to take effect. A major breakthrough was recently announced by the G7 group, which has reached an historic agreement on taxing multinational companies. The finance ministers of the G7 states meeting in London have agreed to commit themselves to the principle of a minimum corporate tax rate of 15%. Technology giants like Amazon and Google could be among the companies affected. The move could spill billions of dollars into governments to pay off debts incurred during the COVID crisis.

Conclusions

Recent evolutions, including G7 agreement indicate that some of the world's largest economies, among which the United States and Europe, will soon have a centralized and standardized formula, operating on a consolidated basis and not on a state-by-state basis. In the future, the USA, the European Union, but also the rest of the relevant economies will be able to conclude trade and free trade agreements that will also provide for the taxation of multinationals. Taxation issues need to play an increasingly important role in trade agreements and policies.

Reforming the taxation methods of large corporations will bring considerable gains to national governments, and societies as a whole. In this sense, a global tax base will bring the uselessness of outsourcing profits to tax havens. Thus, these states that live only by stimulating multinationals to outsource their profits to them, will have to rethink their economic and social approach.

References

- Cobham, Alex. 2018. "Global Distribution of Revenue Loss from Corporate Tax Avoidance: Re-Estimation and Country Results." *Journal of International Development* 30 (2): 206–32.
- Cobham, Alex, and Petr Janský. 2017. "Measuring Misalignment: The Location of US Multinationals' Economic Activity versus the Location of their Profits." *Development Policy Review* 37 (1): 91–110.
- Crivelli, Ernesto, Ruud A. de Mooij, and Michael Keen. 2015. "Base Erosion, Profit Shifting and Developing Countries". *IMF Working Paper 15/118*, International Monetary Fund, Washington, DC.
- Henry, James S. 2016. "Taxing Tax Havens." *Foreign Affairs*, April 12.
- Nebus, J. 2019. "Will tax reforms alone solve the tax avoidance and tax haven problems?" *Journal of International Business Policy* 2(3): 258-271. Palgrave Macmillan.
- Ozili, P.K. 2019. "Tax evasion and financial instability." *Journal of Financial Crime*, Accessed at: <http://emeraldinsight.com/1359-0790.htm>.
- Spire, A. 2018. "Les classes populaires et l'injustice fiscale: Aux sources de la colère contre l'impôt." *Le Monde Diplomatique*. <https://www.monde-diplomatique.fr/2018/12/SPIRE/59371>.
- Weichenrieder, A.J., Xu, F. 2019, "Are Tax Havens good? Implication of the crackdown on secrecy." *Journal of Economics*, Issue 127.
- Zucman, D.C. Gabriel. 2017. "How Corporations and the Wealthy Evade Taxes." *New York Times*, November 10.

New Regulations on the Concession Contract Regarding the Natural Gas Supply. Connection to the Natural Gas Network in Romania

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ABSTRACT: The supply of natural gas and electricity continued to be a difficult goal for many household consumers in Romania, despite sufficient natural resources. The cause was represented by the existence of a monopoly over the provision of those two services, but, due to the liberalization of the market for the supply of natural gas and electricity, several benefits are to be implemented in this area. In this sense, both the primary and the secondary legislation have been already amended, and the future domestic and non-domestic customers expect the unblocking of the situation in the shortest possible time, issue that implies the efficient mobilization of all public authorities and of the system distribution operators. Therefore, we will analyze these new legal provisions and how they will influence the already concluded concession contracts, but also whether they will improve the quality of life of the applicants.

KEYWORDS: concession contract, public service, natural gas, applicant, operator

Public Service

It is worldwide known that the public service has been identified, as a rule, as an activity of general interest undertaken by the administration or by a private person who has the prerogatives of public power, in order to satisfy the public interest. The implications of the functioning of a public service are major, starting from its essential character of activity of general interest. That is why, through its decision, the Constitutional Court of Romania specified that the state must ensure the control mechanisms of private activities that fulfil attributions related to the organization of a public service.

The administration of the public service by an individual must always be aimed at *satisfying a public interest* (Avram 2003, 90; Goodnow 2005, 10), even if that individual obviously seeks to obtain a personal profit. In other words, the desired gain must not contradict the general interest and the concession must not lead to the destruction of public wealth and national heritage.

Currently, the Romanian legislator has given up the notion of public service, substituting it with the one of service, in accordance with the transposed Directive EU/23/2016, but this is only a terminological difference.

A second criterion for identifying the public service is *the entrustment* by the public authority of the performance of the public service. The public service can be performed exclusively by the public law authority that values the goods on the public domain, or it can function by involving a private activity.

With the increasing involvement of the state in specific activities of the private sector, but also with the involvement of private companies in areas that once represented the exclusive jurisdiction of the state (Dinu 2016, 251), the delimitation between public services that were either the attribute of direct implementation by public authorities or the attribute of accepting their realization through private structures, has been blurred.

In an extensive interpretation of the scope of public services that can be left to the management of the latter structures, G. Jéze (Dupuis, Guédon and Chrétien, 2011, 553) even admitted the concession to a private individual of the monopolized public service (for example, the manufacture of weapons for the defence of the country), arguing that public services, the

object of the concession, may be constituted in the form of a legal monopoly, a de facto monopoly or without any monopoly. However, certain public services remain the exclusive responsibility of the state, such as the right to mint money.

The selection of urgencies based exclusively on the decision of the doctor

Returning to more concrete and more relevant aspects of this analysis, we specify that, currently, the legal framework governing the service concession is represented by Law no. 100/2016 on works concessions and service concessions, with subsequent amendments and completions. The normative act transposes Directive EU/23/2016, whose ultimate goal is for the citizens of the Union to benefit from quality services at the best prices, by making optimal use of public money and contracting services from all economic operators in the Union.

According to paragraph 1 of the preamble to the Directive, the aim is to create an “adequate, balanced and flexible legal framework governing the award of concessions”, guaranteeing economic operators effective and non-discriminatory market access, “favouring public investment in strategic infrastructure and services for citizens” (Coldea 2017).

In the same idea, amendments were made to the special legislation governing certain subcategories of concession contracts - oil, natural gas, electricity, and Law no. 100/2016 has thus become the general legal framework for concessions of works and services.

The amendments of these normative acts have led to the unblocking of some investments of public interest, such as those regarding the connection of some localities to natural gas.

The exploitation of natural gas distribution is a public utility service, as provided by Order no. 18/10.03.2021 for the approval of the Regulation on the connection to the natural gas distribution system, issued by the president of ANRE.

According to the provisions of article 39, within the A.N.R.E. Order no. 18/10.03.2021, the authorized economic operator by A.N.R.E. will issue the necessary documents to start or continue the connection process for all submitted applications.

Thus, in the localities where the network is already executed, the local public administration authorities will initially take steps to the natural gas supply company in order to carry out the connection procedures, following which the natural gas distribution networks will be taken over by the distributor.

Recent measures regarding the connection to the natural gas network

According to a case study in this regard is the situation of Dridif village, Voila Commune, Braşov County, where, according to information from the written press, “gas pipes have been installed since 1997, but, from the entire Voila commune, only in the village of Vojvodeni (...) Money also came from the government, but the village (Dridif) also put money, man by man, to connect us to the big gas pipeline (...)”. People paid their share, being interested in the connection to natural gas (...). As it collected the money from the villagers, the company also put the pipes. In front of each house, the pipe ends can now be seen. Only the connection to the installation in the house is missing (Andrieş, Chirea and Nistor 2020, Libertatea.ro).

In some situations, the concession contracts were concluded many years ago, even under the incidence of Law no. 351/2004, subsequently repealed by Law no. 123/2012 regarding electricity and natural gas.

Law no.123/2012 was amended by Law no.290/2020, which entered into force on 19 December 2020, so that art.104 paragraph (6) of Law no.123 / 2012 provides the following, for the administrative-territorial units in which distributions are partially concessioned (leased):

a) The concessionaire is obliged to develop the natural gas distribution system in all localities belonging to an administrative-territorial unit within which for at least one locality it has concessioned (leased) the public utility service for natural gas distribution;

b) The concession contract for the provision of the public natural gas distribution service concluded with the concessionaire in the respective area shall be amended accordingly, within 60 calendar days from the entry into force of this article, by additional act, at the initiative of the concessionaire.

Therefore, the concessionaire in charge of natural gas distribution and the Romanian state, through the Ministry of Energy, must draw up additional documents to the concession contracts of the public natural gas distribution service for the neighboring localities, as is the case of Dridif village, exemplified above.

Supervision of the supply operator, a right or an obligation of the granting public authority?

In order to ensure the supply of natural gas to consumers, the concessionaire of the public natural gas distribution service has the obligations provided by art.105 of Law no.123/2012 on electricity and natural gas, with subsequent amendments and completions, according to which the grantor / the concessionaire of the public natural gas distribution service must ensure the follow-up of the execution of the works provided in the establishment authorization /concession contract, by its own personnel or by contractual personnel, authorized according to A.N.R.E. regulations.

In this sense, according to Annex 2 b) point 9.1. from the General Framework regarding the legal regime of the concession contracts of the public utility service for natural gas distribution, the procedures for granting concessions, the framework content of the specifications, approved by Government Decision no. 209/2019, during the concession contract, the grantor *has the right to verify compliance with the obligations assumed by the concessionaire*. Thus, the grantor has the right to inspect the goods, to verify the stage of realization of the investments, as well as the way in which the public interest is satisfied by carrying out the activity or public utility service of natural gas distribution.

Also, according to point 4.6 of the same Annex, for the objectives that were not specified by the concession contract of the public utility service for natural gas distribution in the delimited areas, the concessionaire has the obligation to proceed according to the legislation in force.

As a result, according to the legal provisions in force, the Ministry of Energy, as a grantor of the public gas distribution service, may follow the way in which the concessionaire of the natural gas supply service executes its legal obligation to develop the natural gas distribution system. Thus, the concessionaire must make investments in the development of the distribution system within a reasonable time, and the grantor, through the Ministry of Energy, will be able to control the concessionaire's investments.

Regarding the investments provided for by the concessionaire and the “maximum duration of the development of the natural gas distribution system”, the legislation does not provide a deadline, according to art.104 paragraph (6) of the Energy Law no.123/2012 electricity and natural gas, with subsequent amendments and completions, the concessionaire being obliged to develop the natural gas distribution system in all localities belonging to an administrative-territorial unit within which for at least one locality has concessioned the public gas distribution utility natural.

According to art.138 paragraph (1) letter a) of the same law, the natural gas distributor has the obligation to develop the distribution system in conditions of safety, economic efficiency and environmental protection. In order to respect those provisions, the Ministry of Energy must conclude additional acts for all the localities related to the concession contracts in which he has the quality of grantor.

At the same time, within the additional act, it can be provided that the distribution operator that has the quality of concessionaire has the obligation to carry out a technical-economic study elaborated on the basis of a feasibility study, made available in this sense by the administrative-territorial unit the authority of the local public administration, in order to analyze it and perform

the technical-economic calculations. As regards the manner in which control over the execution of the concessionaire's investments may be exercised, the grantor, in this case the Ministry of Energy may carry out all the checks necessary for the exercise of his rights and may take note on the spot or through copies of any document - technical or accounting.

We underline that the verification of the stage of completion of the investment works is a right and not an obligation of the public entity, as neither the concession contracts nor the legislation in force imperatively provide for the obligation to carry out this control by the grantor.

Such an example of public control exercised by the grantor after the conclusion of the contract is found in several countries, being a component of risk management (Dinu 2016, 251).

According to art.185 of Law no.123/2012, the investigation rights of the ANRE staff empowered in this respect are the following:

- a) To enter the spaces, lands or means of transport that the economic operators legally own;
- b) To examine any documents, registers, financial-accounting and commercial documents or other records related to the activity of economic operators, regardless of the place where they are stored;
- c) To request from any representative or employee of the economic operator explanations regarding the facts or documents related to the object and purpose of the investigation and to record or record its answers;
- d) To pick up or obtain in any form copies or extracts from any documents, registers, financial-accounting and commercial documents or from other records related to the activity of the economic operator;
- e) To seal any location intended for the activities of the economic operator and any documents, registers, financial-accounting and commercial documents or other records related to the activity of the economic operator, for the duration and to the extent necessary for the investigation.

The competent authority will proceed with the actions provided only if there are indications that documents can be found or information considered necessary for the fulfilment of its competences can be obtained, and the result of the investigation will be recorded in a report of finding and inventory.

The competent authority may make unannounced inspections and may request to be submitted within a reasonable time any information or justification related to the performance of the investigative powers, both on the spot and by convocation at its headquarters.

References

- Andrieș, M., Vlad Chirea and Cosmin Nistor. 2020. "The villagers from Dridif, Brasov, have been waiting for 23 years for the pipes installed with their money to be put into use: They paid, they died, the gas still didn't come!" *Libertatea.ro*, December 2, 2020. <https://www.libertatea.ro/stiri/sateni-dridif-brasov-platit-tevi-gaz-banii-lor-3291367>.
- Avram, I. 2003. *The Concession Agreement*. Bucharest: Rossetti Publishing House.
- Coldea, A.M. (Toader). 2017. "The relationship between the operational risk in the matter of concession and the risk in private law." *Studia Iurisprudenția* no. 4.
- Dinu, C.G. 2016. *The Concession Agreement*. Bucharest: C.H. Beck Publishing House.
- Dupuis, G., Guédon, M.-J., and Chrétien P. 2011. *Administrative Law*, the 12nd Edition. Sirey, Paris.
- Goodnow, F.J. 2005. *Comparative Administrative Law*. Ltd. Clark, New Jersey.
- Law no. 351/2004, published in the Romanian Official Journal no. 679 of 28 July 2004.
- Law no.100/2016, published in the Romanian Official Journal no. 392 of 23 May 2016.
- Order no. 18/10.03.2021, published in the Romanian Official Journal no. 264 of 17 March 2021.
- The Decision of the Romanian Constitutional Court no. 1636 of 10 December 2009 on the unconstitutionality of Law no. 335/2007 regarding the amendment and completion of Law no. 26/1990 on trade registration.

Equitable Green New Deal (GND)

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ABSTRACT: The Green New Deal (GND) is a governmental strategy to strengthen the United States economy and foster inclusive growth. The GND is targeted at sharing economic growth benefits more equally within society. How to align economic interest with justice and fairness notions is the question of our times when considering the massive challenges faced in terms of environmental challenges, healthcare demands and social justice pledges. First, this paper will outline what the GND is, how the GND is implemented and why it matters in its multiple implementation facets and international angles. Second, the Green New Deal will be presented as a possibility to make the world and society more equitable in the domains of environmental justice, access to affordable healthcare and social justice excellence. Ethical imperatives and equity mandates lead the economic rationale behind redistribution in the GND as social peace, health and favorable environmental conditions are prerequisites for productivity. The GND offers hope in making the world and society but also overlapping generations more equitable and thus to bestow peace within society, around the world and over time. In answering the question if the GND is equitable, one has to acknowledge that the GND is a fairly novel phenomenon with international variations and diverse implementation strategies.

KEYWORDS: Access to Affordable Healthcare, Climate Change, Economics of the Environment, Environmental Justice, Environmental Governance, Green New Deal, Healthcare, Monetary Policy, Multiplier, Social Justice, Sustainability

Introduction

A warming earth under climate change is pressuring future generations' living conditions. Never before in the history of humankind have environmental concerns in the wake of economic growth heralded governance predicaments as we face today (Puauschunder 2019c, d). Climate change presents societal, international and intergenerational fairness as challenge for modern economies and contemporary democracies. In today's climate change mitigation and adaptation efforts, high and low income households, developed and underdeveloped countries and overlapping generations are affected differently (Puauschunder 2018, 2020b). Public policies and monetary aid appear as most common and efficient transfer mechanisms to alleviate environmental injustice. Innovative GND strategies unleashing a sustainable economy in harmony with equity pledges for a healthy population has become the core of COVID-19 rescue and recovery aid.

The novel coronavirus SARS-CoV-2 accounts for the most unexpected widespread external economic shock to modern humankind (Baldwin & di Mauro 2021). So far almost 200 million recorded infected people have caused over four million documented deaths related to the disease in over 220 countries and territories around the globe (Worldometer 2021). Early on scientific estimations accounted for about 80% of the world population to get infected with the virus in dense areas in one form or another at a point in their life (BBC 2020). With about 10-up to over 30% of previously infected to develop long-term impacts of the disease, we can say that COVID-19 will be the most prevailing external change factor of our current generation (Coleman 2021; Economist 2021). The currently ongoing COVID-19 crisis has challenged healthcare around the world. The pandemic has made already long existing healthcare inequality even more blatantly transparent as ever before (Puauschunder & Beerbaum 2020).

The common call for global solutions in international healthcare pandemic outbreak monitoring and crisis risk management has reached unprecedented momentum. The countries that score high on AI, anti-corruption and healthcare excellence are ultimate innovative global pandemic alleviation leaders (Puaschunder & Beerbaum 2020). Examining healthcare sector provision and combining the insights about global health with digitalization, GDP and levels of anti-corruption enabled to show the vast differences of medical sector performance around the globe (Puaschunder & Beerbaum 2020). With the Coronavirus crisis imposing the most challenging healthcare crisis of the last century and the most worldwide spread pandemic ever occurred in our contemporary society, the time is ripe to tackle not only the challenge to alleviate healthcare inequality around the world. COVID-19 can also be interpreted as a great reset advantage to use the potential of digitalization in order to spread access to global healthcare provision, foremost via telemedicine and healthcare apps.

The novel coronavirus SARS-CoV-2 imposes the most unexpected external economic shock to modern humankind. In order to alleviate unexpected negative fallouts from the crisis, global governance and governments around the globe engaged in bailouts and recovery packages of extraordinary size and scope. In confronting the crisis, economic bailout and rescue packages are currently also addressing widespread social inequality alleviation. In the eye of social inequality, governments around the world are therefore pegging bailout and recovery targets to social equality goals. As we are entering the age of corporate social justice and inclusive societies, governmental aid appears as powerful force for alleviating discrimination or re-balancing a disparate impact towards creating a more right, just and fair allocation of economic gains. Governmental aid and rescue packages will have the extraordinary potential to fund anti-discrimination of unjust or prejudicial treatment of different categories of people or things. Long-standing, ample evidence of discrimination and most important attempts exist to legally abolish, economically counter-weight and societally alleviate the negative impacts of discrimination around the world. Yet to this day, there is hardly any description of discrimination of excellence against social justice. In the wake of the rising social justice movement, social justice plays a crucial role in pushing for positive societal change. Social justice striving is thus the excellence of our times that can be flourished by the GND.

The Green New Deal

Inspired by the economic success story of the New Deal reform of the United States to recover from the Great Depression of the 1920s, the so-called Green New Deal (GND) is the most advanced governmental attempt to secure a sustainable economic solution in harmony with the earth's resources. The GND advocates for using a transition to renewable energy and sustainable growth in order to stimulate economic growth (116th Congress of the United States, House Resolution 109, Introduced Feb 7, 2019). The post-COVID-19 recovery era is also a time of blatant disparities and inequalities in terms of access to healthcare and social justice. In times of rising inequality, the GND has also become a vehicle to determine the COVID-19 economic bailout and recover aid targets. The GND thereby combines Roosevelt's economic approach with modern ideas of economic stimulus incentivizing industries for a transition to renewable energy and resource efficiency as well as healthcare equality and social justice pledges.

Implementing the social cost of carbon has already been part of U.S. President Obama administration's plans for addressing climate change (Puaschunder 2021). The beginnings of the GND idea was Senator Edward Markey and Representative Alexandria Ocasio-Cortez pushing for transitioning the United States to use 100% renewable, zero-emission energy sources including investment into electric cars and high-speed rail systems (Puaschunder 2021). In January 2019, a letter signed by 626 organizations in support of a GND was sent to all members of the United States Congress (Puaschunder 2021). The GND encourages to create jobs in green industries, thus boosting the world economy and curbing climate change at the same time

(Puaschunder, 2021). Economic foundations are grounded on John Maynard Keynes' spending multiplier effect (1936), which proves governmental spending to trickle down in the economy and ignite positive transformative change at the same time via innovation and social equity.

On the international level, emissions trading plays a role in order to incentivize corporations around the globe to reduce greenhouse gas emissions (Braga, Fischermann & Semmler 2020). Green bonds are another strategy in the wake of the environmental efforts of the GND in order to raise funds internationally and over time for green transition innovations but also fund climate change mitigation and adaptation (Orlov, Rovenskaya, Puaschunder & Semmler 2018). Within the country level, environmental pricing – foremost enabled via ecotaxation – curbs harmful emissions and sets incentives to reduce energy or transition to a renewable solution (Braga et al. 2020). In the environmental sphere, the US GND couples global governance efforts in fiscal policy strategies targeted at a carbon tax to fund climate change mitigation and adaptation efforts (Braga et al. 2020). Monetary and credit policies – foremost enacted by the Federal Reserve and implemented by public policy officials – foster the financialization of climate change mitigation and adaptation while counterbalancing inflation rate rises in the eye of climate disasters and their recovery financing (Braga et al. 2020). GND insurance policies are trying to back underserved communities' resilience that is challenged by ongoing environmental crises. The GND funding for R&D and governmental infant industry grants target at green market solutions, such as absorbing CO₂ or ecowellness solutions. Behavioral insights can be used to steer positive change and environmental conscientiousness during purchasing decisions and living choices (Puaschunder 2020a). As such sustainability can become lived throughout the working, leisure and healthcare activities. Examples include sustainable tourism, intergenerationally conscientious living as well as asset allocation styles in Socially Responsible Investment. Portfolio managers and asset funds management executives have caught up on this emerging trend of a rise in interest to align financial goals with sustainability pledges (Braga et al. 2020; Puaschunder 2020c).

The results whether the environmental edge in economic stimulus will be successful or not will become visible long term. Most of the measures and changes implied are long-term goals that will not be easily captured with our contemporary stress test methodology or public policy monitoring and evaluation tools. In order to get a sense whether inequality is alleviated and the GND goals accomplishment plans are successful, it will be necessary to derive inference from two other major areas of change instigated by the GND: General access to common healthcare and social justice.

Healthcare inequality alleviation

With the novel Coronavirus (COVID-19) spreading around the world from the beginning of 2020 on accounting for the most challenging healthcare crisis of our lifetimes, calls have risen to find a common world solution to prevent future pandemics and overall healthcare crises. In order to prevent the world population from transmission of a highly contagious, deadly virus, global concerted efforts are required and a coordination of prevention and security on a global scale. The United Nations Unequal World Conferences vividly outlined the inequality inherent in global healthcare provision (Puaschunder & Beerbaum 2020). COVID-19 on a global scale makes international differences in the approaches to combat global pandemics with technological solutions apparent (Puaschunder & Beerbaum 2020; Puaschunder 2021). Especially in the tragic cases of COVID-19 Long Haulers, who appear to have long-term waves of symptoms or chronic debilitating states, Digitalization, Artificial Intelligence (AI) and big data-derived inferences seem to offer the potential to support human beings in times of blackouts. In today's healthcare sector and medical profession, AI, algorithms, robotics and big data are used as essential healthcare enhancements. These new technologies allow monitoring of large-scale medical trends and measuring individual risks based on big data-

driven estimations. To name a few groundbreaking innovations that could help in detecting virus potential in large groups, smartphone applications and constant tracking devices not only help in prevention via crowd control. The Internet of Things (IoT) devices can also offer invaluable insights to monitor patient health self-administered and in real time (OECD 2015, 2019). Electronic health records (EHRs), genome sequencing, but also high-resolution medical imaging are additional monitoring and tracking innovations that could revolutionize future healthcare for the benefit of all (Puaschunder 2019a, b).

The GND can not only fund big data, AI and robotics innovations to monitoring and track pandemic outbreaks, resource availability and human constant health statuses. It could also allow for technological development of information and communication technologies for the low-cost generation of big data and patient-led monitoring on a more global scale. Telemedicine could bring access to affordable medical care via crowdsourcing of information to remote areas of the world. In this the GND could become the ultimate international development accelerator that offers easy and cheap access to decentralized information collection in exchange for data. Marginalized and remote communities could thereby benefit from equal, easy and cheap access to medical aid (Puaschunder forthcoming). Decentralized grids also open novel opportunities of monitoring and measuring information constantly and closely where health or diseases occur (Puaschunder forthcoming). Networking data sharing capacities have reached unprecedented density and sophistication (Puaschunder forthcoming). Novel mapping tools can display local search results and crowd media use into visible alert systems so it becomes more accessible in a broader way (Puaschunder forthcoming). Decentralized crisis management applications of AI and machine learning already range from data-driven assistance in pandemic outbreak control to battling hunger and poverty as well as forced migration (Puaschunder forthcoming). At the same time, however, these vulnerable populations demand for protection of their privacy and dignity, especially when it comes to marginalized groups. Ethical imperatives but also legal support must protect society from big data generation that is used in a harmful way. Data insight misuse at the expense of fair opportunities and equal access to chances must be avoided. In this, again, the GND offers the opportunity to flourish economic growth with respect for equality as well as fair and dignified treatment of all.

Social justice

We live in the era of widespread awareness of systemic inequality. Discrimination is unjust or prejudicial treatment of different categories of people or things. Long-standing, ample evidence of discrimination and most important attempts exist to legally abolish, economically counter-weight and societally alleviate the negative impacts of discrimination around the world. Yet to this day, there is hardly any description of discrimination of excellence against social justice. In the wake of the rising social justice movement, social justice plays a crucial role in pushing for societal change. Social justice striving is thus the excellence of our times.

New ground-breaking trends survive in history and are considered as excellent and brilliant innovation that ennobled society and advanced welfare. The GND could draw from the strength of law and economics to enable inequality alleviation and fight discrimination. Excellence and luxury are nowadays found in a truly inclusive society that is built on hallmarks of anti-discrimination. In the wake of the rising social justice sentiment all over the world, social justice is defined as multiplier luxury in offering the hope of a better, more equal society. Social justice pioneers are the heroes of our times and their excellence should be celebrated and gratified as luxury moment that needs to be protected to trickle down in society. Direct attempts to diminish inequality and foster social justice comprise of increasing state-sponsored jobs to improve economic equality. A 10-year national mobilization targets at work security and uplifting working conditions by high-quality health care, affordable housing for

all, economic security, access to clean water, air, healthy food and nature, education, clean, renewable, zero-emission energy, repairing of infrastructure, energy efficient smart power grids, improved living conditions by pollution elimination, clean manufacturing and positive work collaborations without discrimination.

The GND offers leadership potential and incentives against discrimination of excellence represented in the luxury of cultural diversity. Luxury may hold unprecedentedly captured easily-implementable remedies against discrimination of excellence in inclusivity. We see these trends in the arts, where countercultures and diverse societies are often celebrated before the mainstream accepts them. The difference is celebrated as novelty and the diverse representation praised as *en vogue* fortification of trends. In the GND economics could come to life in combating economically-suboptimal and societally-hurtful discrimination of excellence in social justice.

Conclusion

The success in the implementation of the GND will depend on a deeper understanding the interaction and interdependence of economics within society (Puaschunder 2021). Longer term outcomes and impacts in the preventive healthcare provision around the world, environmental security and social justice will determine the living conditions and peace prospects of this generation and those to come.

References

- 116TH CONGRESS OF THE UNITED STATES, HOUSE RESOLUTION 109, Introduced Feb 7, 2019, *Recognizing the duty of the Federal Government to create a Green New Deal*. Accessed Sept 30, 2020 at <https://www.congress.gov/116/bills/hres/109/BILLS-116hres109ih.pdf>.
- Baldwin, Richard & Beatrice Weder di Mauro (eds.). "Economics in the Time of COVID-19." CEPR Press. <https://cepr.org/sites/default/files/news/COVID-19.pdf>.
- BBC News Scotland. 2020. *50-80% of population could be affected by coronavirus*, March 2, 2020, <https://www.bbc.com/news/av/uk-scotland-51711747>.
- Braga, João Paulo, Thomas Fischermann & Willi Semmler. 2020. „Ökonomie und Klimapolitik: So könnte es gehen.“ *Die Zeit*, 11, 5, March 10, 2020.
- Coleman, Justine. 2021. "CDC study on COVID-19 long-haulers: Two-thirds of non-hospitalized patients receive new diagnoses." *The Hill*, Apr. 23, 2021. <https://thehill.com/policy/healthcare/549950-cdc-study-on-covid-19-long-haulers-two-thirds-of-non-hospitalized-patients>.
- Keynes, John Maynard. 1936. *The general theory of employment, interest and money*. London: Macmillan, 1936.
- Organisation for Economic Cooperation and Development (OECD). 2015. *Data-Driven Innovation: Big Data for Growth and Well-Being*. Paris: OECD. Retrieved at <http://dx.doi.org/10.1787/9789264229358-en>.
- Orlov, Sergey, Elena Rovenskaya, Julia Margarete Puaschunder & Willi Semmler. 2018. "Green bonds, transition to a low-carbon economy, and intergenerational fairness: Evidence from an extended DICE model." International Institute for Applied Systems Analysis Working Paper WP-18-001, 2018. IIASA, Laxenburg, Austria, European Union.
- Puaschunder, Julia Margarete. 2018. *Intergenerational Responsibility in the 21st Century*. Wilmington, US: Vernon Arts & Science.
- Puaschunder, Julia Margarete. 2019a. "Artificial Intelligence, Big Data, and Algorithms in Healthcare." Report on behalf of the European Parliament European Liberal Forum in cooperation with The New Austria and Liberal Forum, Retrieved at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3472885
- Puaschunder, Julia Margarete. 2019b. "Artificial Intelligence Market Disruption." *Proceedings of the International RAIS Conference on Social Sciences and Humanities* organized by Research Association for Interdisciplinary Studies at Johns Hopkins University, Montgomery County Campus, Rockville, MD, United States, June 10-11, (2019): 1-8.
- Puaschunder, Julia Margarete. 2019c. *Corporate and Financial Intergenerational Leadership*. Lady Stephenson, Newcastle upon Tyne, UK: Cambridge Scholars Publishing.
- Puaschunder, Julia Margarete. 2019d. *Intergenerational Equity: Corporate and Financial Leadership*. Cheltenham, UK & Northampton, MA: Edward Elgar.
- Puaschunder, Julia Margarete. 2020a. *Behavioral Economics and Finance: Nudging and Winking to make Better Choices*. Springer Nature.

- Puaschunder, Julia Margarete. 2020b. *Governance and Climate Justice: Global South and Developing Nations*. New York, New York: Palgrave Macmillan. Cham, Switzerland: Springer Nature.
- Puaschunder, Julia Margarete. 2020c. “The Green New Deal: Historical foundations, economic fundamentals and implementation strategies.” *Proceedings of the 18th Conference on Social Sciences and Humanities*, organized by Research Association for Interdisciplinary Studies on August 17, 2020.
- Puaschunder, Julia Margarete. 2021. “Monitoring and Evaluation (M&E) of the Green New Deal (GND) and European Green Deal (EGD).” *21st Research Association for Interdisciplinary Studies (RAIS) Conference Proceedings*, pp. 202-206, March 1, 2021.
- Puaschunder, Julia Margarete. forthcoming. *The future of Artificial Intelligence in international healthcare: An index*. Vienna, Austria: Austrian Academy of Sciences.
- Puaschunder, Julia Margarete & Dirk Beerbaum. “Healthcare inequality in the digital 21st century: The case for a mandate for equal access to quality medicine for all.” *Proceedings of the 1st Unequal World Conference*. United Nations New York, New York, United States.
- The Economist. 2021. *Post-COVID syndrome researchers are closing in on long covid: The results are alarming*, *ECONOMIST* (Apr. 29, 2021), <https://www.economist.com/special-report/2020/10/08/changing-places>, <https://www.economist.com/science-and-technology/2021/04/29/researchers-are-closing-in-on-long-covid>.
- Worldometer, *Coronavirus Live Update*, <https://www.worldometers.info/coronavirus/>.

Legislative and Jurisprudential Analysis Regarding the Regulation of Online Pharmacies

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ABSTRACT: As a result of the evolution of information and communication technologies, medicines, like other goods, are now increasingly marketed on the EU internal market through these channels. When examining the compatibility of the conditions for the supply of retail medicinal products with European Union law, the Court of Justice has recognized the specific nature of medicinal products, whose therapeutic effect significantly distinguishes them from other goods. Taking into account all these aspects, this article aims to analyze the centralized regulation of online pharmacies in relation to European Union law, the jurisprudence of the Court of Justice of the European Union, as well as the legislative measures taken at national level to provide medicinal products to the population through the Internet.

KEYWORDS: European legislation, the Court of Justice of the European Union, public health, legislative initiatives, internal market, patient rights

Introduction

In its rich case law, the Court of Justice of the European Union has also stated that the health and life of the people (Rotaru 2019, 201-215) rank first among the values and interests by the Treaty on the Functioning of the European Union (TFEU) and that Member States must have a margin of discretion (see Judgment of 19 May 2009 on Joined Cases C-171/07 and C-172/07 *Apothekerkammer des Saarlandes* and *Others / Saarland*, paragraphs 19 and 31) in the supply of medicinal products to the population on their territory.

In particular, given the risks to public health, the case law of the Court of Justice has recognized that Member States may, in principle, restrict the retail sale of medicinal products only through online pharmacies (see Judgment of 19 May 2009 on Joined Cases C-171/07 and C-172/07 *Apothekerkammer des Saarlandes* and *Others/Saarland*, paragraphs 34 and 35).

Theory

Illegal sale of medicinal products to the population through the Internet poses a serious threat to public health, as this way people can get fake medicinal products.

Taking into account that specific conditions for the supply of medicinal products to the population were not harmonized at Union level and that there is an alarming increase within the European Union in the number of detected medicinal products that are falsified in terms of their identity, history or source, it was necessary to adopt Directive 2011/62/EU amending the Community Code for medicinal products for human use (Directive 2001/83/EC) as regards the prevention of falsified medicinal products entering the legal supply chain.

Past experience shows that no falsified medicines reach patients only through illegal means, but also via the legal supply chain. This poses a particular threat to public health and can lead to the distrust of patients, including in the legal supply chain.

To prevent drugs that are suspected to present a danger to health from reaching the patient, Member States use a system that includes the receipt and handling of notifications of suspected falsified medicinal products, as well as suspected quality defects of medicinal

products. The system includes also recalls of drugs made by holders of marketing authorizations or withdrawals of drugs from the market ordered by the competent national authorities from all relevant actors in the supply chain, both during normal working hours and beyond.

The system also allows, if necessary, with the assistance of healthcare professionals, medicinal product recalls from patients who received such products.

If it is suspected that the product in question poses a serious risk to public health, the competent authority of the Member State where the product was initially identified transmits without delay a rapid alert notification to all Member States and all actors in the supply chain of the Member State in question.

If it is suspected that falsified medicinal products have reached patients, urgent public announcements are made within 24 hours to recover these products from the patients. Such notices shall contain sufficient information on the suspected quality defect or falsification and the risks involved.

Results and discussions

Without prejudice to national legislation prohibiting the sale to the public of Rx medicines (which are available only on prescription) via the Internet (See Case C-319/05, Member States must ensure that medicinal products are offered for sale at a distance to the public via the information society services.

In order not to unduly restrict the functioning of the internal market, but also to protect public health in the case of the retail supply of medicinal products sold online, Directive 2011/62 / EU provided for the creation of a common logo, which can be recognized throughout Union and make it possible to identify the Member State in which the legal person offering online medicinal products to the public is residing.

That logo is clearly displayed on the website which offers medicines by distance selling to the public. The logo is clickable and will appear on the websites of all online medicine retailers in the EU that are registered with their national regulatory authority. The national flag and the text are an integral part of the logo. Only national flags of an EU Member State, as well as those of Norway, Iceland and Liechtenstein can be displayed. A logo that displays the EU flag, for example, is not authentic.

In order to transpose into national law the provisions of Directive 2011/62 / EU on the retail supply of medicinal products via the Internet, the new rules concerning the possibility for pharmacies to market online human medicinal products without prescription (the so-called over-the-counter drugs - OTCs) came into force on 24 April 2019 .

By implementing this normative act, Romania has joined the other European states, regulating the way and conditions in which traditional pharmacies can commercialize at a distance medicines for human use, by setting up online pharmacies.

The authorization of pharmacies for the online marketing of medicinal products will be based on the inclusion of an additional mention (Marin, and Botină 2013, 621) on the sanitary authorization issued by the Ministry of Health, which requires a series of criteria in order to obtain the qualification of online pharmacy.

According to the provisions of art. 31 (1) of the Norms, the Community pharmacy that also wants to provide online sales needs an additional 10 sq m space reserved exclusively for online business support (for example, packing and storing medicinal products).

As far as the online pharmacy site is concerned, it must meet, in addition to the general conditions for e-commerce, a number of specific requirements. Thus, the online pharmacy website will have a distinct section for the sale of medicinal products. The content of this section is strongly regulated, both in terms of the existence of mandatory elements and of the presentation of medicinal products.

Authorized online pharmacies will use the European common logo only in compliance with the terms of the license agreement signed between Romania and the European Commission. In addition, the online pharmacy website must contain a link to the Romanian National Agency for Medicines and Medical Devices (ANMDDMR) site, "Report an adverse reaction" section. Each online pharmacy has to appoint a pharmacist responsible for online sale of medicinal products, with a range of tasks related to the end-user relationship with the pharmacy website.

The online pharmacy website should be built in such a way that the patient can not buy medication without first having a contact with the pharmacist (which can be either via live chat or less interactive means).

Moreover, the online pharmacy website will contain a mandatory questionnaire to be filled in by the patient with general information that the pharmacist might normally get visually (for example, age, sex, pregnancy stage). It is also relevant in view of the fact that medicines can be sold online only to patients over the age of 18 years (Marin 2019, 432-433).

An interesting aspect, which may have implications, including from a personal data protection point of view, is how the interaction between the patient and the pharmacist over the online environment, given the information gathered so as to overcome the lack of traditional interaction.

In line with the legal provisions in force, the website of the online pharmacy is considered as the virtual extension of an authorized community pharmacy. Online pharmaceutical units authorized on the territory of Romania can sell and dispense medicinal products to patients established in other EU Member States in compliance with the medicinal products legislation in the country where the patient is located.

The ordered medicinal products will be delivered by specific means, the online pharmacy being responsible for transporting and storing parcels containing the ordered medicinal products in such a way as to protect them against damage, forgery, theft, as well as maintaining the temperature conditions according to the manufacturer's specifications.

Control and supervision of the sale and release through the information society services of medicinal products that are issued without medical prescription shall be performed by the personnel empowered by the Ministry of Health.

Conclusions

Applying the provisions of Directive 2011/62 / EU, the legalization of on-line pharmacies in Romania is a milestone because the population needs to be assisted in identifying Internet sites that legally offer medicinal products for online sale to the population. Additionally, in collaboration with the European Medicines Agency and the Member States, the European Commission is organizing awareness-raising campaigns to alert consumers to the risks involved in the purchase of medicinal products from illegal Internet sources.

Revealing this is PANGEA VIII, a global operation coordinated by Interpol, which targeted the criminal networks behind the sale of counterfeit medicinal products through online illicit pharmacies. The action led to the launch of 429 investigations, the suspension of 550 online ads for counterfeit medicinal products and of 2414 illegal sites, resulting in 156 worldwide arrests and seizure of potentially dangerous medicinal products worth 81 million USD.

In the near future, a significant development of online pharmacies is expected, especially if we have in view the accelerated growth of online commerce in Romania, this being a channel increasingly accessed by both traders and end-users.

Given that this channel is available to both pharmacies and independent pharmacies, the development of an online marketing channel has the potential to increase competition on this market.

References

- Case C-319/05 *Commission / Germany*, Rep. 2007, p. I-9811.
- Directive 2011/62 / EU of the European Parliament and of the Council of 8 June 2011 amending Directive 2001/83 / EC as regards to the prevention of the entry into the legal supply chain of counterfeit medicinal products, published in the Official Journal of the European Union L 174 of 1.7.2011.
- Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, published in Official Journal of the European Union L 311 of 28.11.2001, p. 67. The consolidated version was published in the Official Journal of the European Union L 87 of 31.3.2009.
- Judgment of 19 May 2009 on Joined Cases C-171/07 and C-172/07 *Apothekerkammer des Saarlandes and Others / Saarland*, Rep, 2009, I-4171.
- Marin, Marilena. 2019. "Human Dignity Between the Acceptances of Roman Law and the Perception of the Romanian Legislator Nowadays." *Jurnalul Libertății de Conștiință*, vol. 7, No. 1, IRASIC, Bucharest.
- Marin, Marilena and Botină, Mădălina. 2013. "Ad Validitatem and Ad Probationem Forms in Notice of Real-Estate Sale." *Contemporary Readings in Law and Social Justice*, vol. 2, pp. 618-624.
- Order no. 444 of March 25, 2019 for the approval of the Norms of 25 March 2019 on the Establishment, Organization and Functioning of Pharmaceutical Units, published in the Official Gazette of Romania, Part I, no. 270 of 9 April 2019.
- Rotaru, Ioan-Gheorghe. 2019. *Om-Demnitare-Libertate (Man-Dignity-Freedom)*. Cluj-Napoca: Risoprint Publishing House.
- Treaty on the Functioning of the European Union (TFEU) - consolidated version, published in the Official Journal of the European Union C 326 of 26.12.2012.

Storytelling as a Teaching Technique within the “Theatrical Education” Course: External and Internal Elements

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ABSTRACT: This article attempts an analysis of storytelling-reading techniques, as well as a presentation of basic rules to train storyteller-readers in such techniques. This effort is based on storytelling lessons in Education Departments in Greece, and more specifically in the Department of Early Childhood Education of the University of Western Macedonia. We analyse everything storytellers need to know to present a good overall “picture” to their audience. By this we mean, basically, dramatic concepts, such as the structure of fairy tales, the characters and plot. We also address issues of intelligence development, both on the side of the storytellers and of the children. We study the fact that storytelling by students in Education Departments in front of their classmates can be the first «step» in strengthening their expressive and teaching abilities. This happens in a rotating and alternating process, where everyone has the role of reader or narrator, in courses where feedback and two-way pedagogy play a dominant role.

KEYWORDS: Fairy tales, Theatre, Narrative, Dramaturgy, Education, Reading, Observation Method

Introduction

In this article we study the general rules for fairy tale reading and storytelling. We analyse the procedures a future storyteller needs to follow to become attractive to their audience. Fairy tales can acquire a pedagogical and theatrical dimension thanks to the special knowledge or skills of the narrators. When they do not know the fairy tale they want to tell very well, they resort to reading. Reading a fairy tale is different from narrating it as those who read it have a text in their hands and for the most part, whatever they express they read it from that text. Children accept this solution, realising, perhaps, that adults who attempt this have difficulties in memorising. They want to hear a fairy tale and they do not refuse the solution of reading from a book, especially when it contains images or photographs that help a lot in better understanding or enjoying the fairy tale. Consequently, this way of reading fairy tales to children - where the reader is next to the children and she can show them the pictures accompanying the text read, offers one advantage: the assistance through pictures.

Methodology

To write this paper, the authors used the method of Observation of storytellers for many years (live, in cultural venues or on the tv), while the questions and interventions of their students during their courses, especially that of Theatrical Education, in the period 2014-21, have also been valuable material. Their observations were recorded in special forms and were subsequently sorted-processed in the first half of 2021. Questions in the period 2014-2019 were made by Mr. Gargalianos, orally in the lecture hall and were addressed to the listeners-students, while in the period 2020-2021 they were made electronically, i.e. via the internet, at the time of the narration or reading. The second way was also used by students for providing directly their answers, which

were recorded in special electronic forms, for later analysis by the professor. Mainly qualitative features of the narrative were studied, namely the theatricality/performativity, the voice tone, the use of facial expressions, hand movements, the relative movement in space.

Furthermore, books on theatrical roleplaying concepts were studied, while the authors placed special emphasis on recording plenty of external information, such as the surrounding area, the number of viewers-listeners, the duration of the reading or narration, etc.

Narration concepts

“Narration” as a word contains many sub-cases, ranging from very simple to very complex: a) narration of an event (e.g. X tells to Y what happened a few moments ago) b) narration of an important incident by a witness (e.g. testimony in a trial) c) narration in theatre and cinema, where an actor narrates to the public things that cannot be staged d) storytelling (Gargalianos 2020, 76). In these cases, there are significant deviations in the narrator's need for theatricality, as presented in the following table, as regards the Methodology of this article.

Table 1. Inherent features of a narrator in relation to the special conditions of the narration

	Theatricality/ performativity	Voice tone	Facial expressions	Hand movement	Movement in space
Narration of a simple event	2	2	3	3	4
Narration of an important incident by a witness	2	4	3	4	5
Narration in theatre and cinema	3	4	4	5	3
Storytelling	2	3	4	1	1

Score: 1 minimum - 5 maximum

Source: Theatrical Education Observation Sheets, 2014-21, Department of Early Childhood Education - University of Western Macedonia

Narration is a relative concept to that of “description”, such as in the case of sports events, public gatherings etc., with the difference being that said description, as a rule, takes place at the time of the event, while narration can be made at another time and may be based on a written text (Legrand 2004, 21).

Narration can be reading and memorisation, depending on if the narrator reads a text or has learnt it off by heart. In the second case, the narrator is allowed to move and transfer their body in space and can therefore give a very advanced perspective in what they narrate (Legrand 2004, 22) Then, we examine the question of whether a narrator should know the text they are about to narrate off by heart. If they cannot trust their memory, it is better that they read it. Reading (simple or complex) has a different impact on listeners, compared to a narration, because it involves its own techniques which, however, are much less demanding than those of memorisation narrative.

Dramaturgical analysis

To tell a story one should definitely first work thoroughly on what is called “dramaturgical analysis of a fairy tale”, in accordance with the respective rules of theatrical play analysis (Landier & Barret 1999, 65). Namely, they should wonder: what are the parts of the story (structure), what is the start and what is the end, what are the conflicts therein, why do the heroes conflict, when

and how many times is there a climax in action, are there any emotions among the heroes, what type and how intense are these emotions, etc.

A fairy tale should feature dialogues, action and “conflicts”. When these are absent, the narrator must discover and express them, first in writing and then in front of an audience. At the same time, any descriptions and tedious monologues that undermine the action and do not favour the development of the myth should be removed. Some fairy tales are made to be narrated and some are not, because they are not all written for narration. In another aspect, a significant number of fairy tales are complex or/and others lack “depth” (proper meaning or moral) and are therefore not worth the trouble (Tsingou 2021).

In general, a fairy tale can help children escape the mundane and lead them to another reality. It is advisable that narrators clarify this before any narration or reading, namely that they tell young children that all they are about to listen are imaginary and do not correspond to any given fact of their current or future life (Quentin 2004, 98).

First questions on technical issues

In Greek Education Departments, especially those of Early Childhood Education, a “tool” for professors teaching basic principles of theatre - not in a literary, but in a drama approach- is the teaching of the above techniques, with the aim of making students good storytellers or fairy tale readers in their future workplaces (Gargalianos 2020, 73). This practical application is a necessary, as well as important, process in a modern School, especially Kindergarten and, to a lesser extent, Primary School.

The external technical issues that arise as soon as reading-narrating starts, are the following:

- a. How often does the reader refer to or depend on the book.
- b. The same question about pictures of the same book.
- c. What is the distance between the children and the reader, i.e. are the pictures visible to children.
- d. The duration of the narration/reading of each fairy tale. Here, we seek the ideal time of reading-narration, based on the reactions of the listeners-students or/and children, as well as their statements regarding on whether they were tired by a reading (Gargalianos, *Observation Sheets*, 2021).

In this sense, everything analysed in this article is based on this two-way process and is presented, in summary, in the following table. In all qualitative characteristics, the predominant answer is “Moderate” and this is an indication that students are not at a high level during their studies.

Table 2. External technical issues in narration

	None/ Non-existent	Low/small	Moderate	High/ long	Very high/ long
a. Reader's level of dependence on the book (text)	No	No	No	No	Yes
b. Reader's level of dependence on the pictures	No	No	No	Yes	No
c. Reader's distance from the children	No	Yes	No	No	No
d. Duration of reading	No	No	Yes	No	No

Source: Gargalianos (2021), *Theatrical Education Observation Sheets, 2014-21*, Department of Early Childhood Education, University of Western Macedonia

Human relationships

We ought to analyse the possible human relationships between narrator/reader and viewer/listener. These are the ones that develop between the latter and the former. They concern the storyteller's friendliness, his willingness to better explain difficult concepts when asked, to basically be a person with good intentions towards his viewer-listeners. Questions arise about possible interruptions, doubts or questions by children (Tsingou 2021). When posed throughout the narrative, the reader/storyteller must devote a short amount of time to each, in order not to lose touch with all participants.

This also raises the issue of the homogeneity of children in terms of age and level of perception: if there are big differences, then, surely, some children will be able to understand a given fairy tale, while others won't (Sotiropoulou-Zorbala 2020, 131). Therefore, we may wonder if the reader/storyteller is able to understand these differences and provide (or not) as many explanations as necessary. At this point, one solution is to tell the fairy tale again in a more analytical way to younger children. This also implies the desire of all participants (reader-children) to be divided into small sub-groups, depending on the degree of perception on the part of the listeners, or of the older children to accept to listen to the fairy tale again.

Preparation Elements

Storytellers must know a multitude of fairy tales and constantly work on them. They find the material in libraries and bookstores, and now online. Due to the abundance of existing fairy tales, storytellers have to make a serious and careful selection. It is not enough to choose only on the basis of the season (e.g. Christmas Fairy Tales in December), but also on the basis of their expected audience each time. Storytellers must also be ready for unplanned invitations for storytelling from young children or heads of educational institutions, so they must show great readiness, both physical and mental (Pavis 2006, 65-66).

Storytellers can also compose their own fairy tales. When they tell their own stories, they tend to tell them better. However, they must be mindful of what they write. It would be a good idea to first talk with child psychologists and receive some advice in order to avoid harming the children. Words and concepts related to violence, death, hatred, etc., should be avoided. As far as preparation is concerned, it is advisable for storytellers to rehearse in front of the mirror and/or to record themselves in order to listen/watch themselves, with the aim of gradually improving.

Finally, observing other colleagues improves any new or seasoned narrator, but also gives a sense of renewal and constant improvement, thanks to what everyone achieves in the "space", through the "other", provided that these observations are mutual (Quentin 2004, 83).

Five key elements and dimensions

There are five key components of storytelling: Time, Space, Modes, Roles and Theme (Landier & Barrett 1999, 67, 223).

Time is double-dimensional. It is divided into: a. storytelling time (at which point in time the myth takes place) b. storytelling duration. Of course, often the time of the fairy tale is indeterminate (once upon a time...).

Space in storytelling has a threefold quality: a. the fairy tale space, b. where we tell it (in which room) and c. the space of the surrounding area (village, city, square, etc.)

Modes are the style in which heroes move or speak, e.g. fast, slow, scared, happy etc. It's also the way storytellers narrate, so here we have two dimensions: Fairy tale character mode, narrative mode.

Roles are the main characters in the fairy tale. Those who do not speak are not primary roles, but secondary or even tertiary roles, so of little importance. In a narrative, secondary roles are usually not even mentioned. Roles are considered to be any heroes speak and specifically the protagonists. That is, those who do not speak are not considered roles in storytelling, even if the storyteller mentions them (Gargalianos 2021, 77).

The theme is what concerns us as a hypothesis, but can be characterised by a word e.g. «Love», «Faith», «Passion», «Hate» etc. At the same time, the theme can be a long phrase such as «The Prince is looking for a beautiful girl, but he does not find her, so he is forced to...» (Pavis 2006, 370). These five elements of the narrative and their dimensions are represented in the table below.

Table 3. Key elements of narration and their dimensions

Key elements of narration	Dimensions
Norm.	two
Space	three
Roles	two
Mode	two
Theme	two

The listeners'-viewers' side

i. Emotional dependence of young children on narration

During storytelling most, if not all, kinds of intelligence of the child are engaged and cultivated, including the following:

1. linguistic or verbal intelligence
2. music/rhythmic
3. physical/kinaesthetic
4. emotional or interpersonal
5. intrapersonal
6. physiocognitive
7. logic/mathematical (Gardner 2011).

It goes without saying that storytellers must have assimilated and conquered - for themselves- all the above types of intelligence to a sufficient degree before telling any story, in order to properly convey to young children what is described above (Landier & Barret 1999, 192).

ii. Ages of listeners

Storytelling - or even reading fairy tales - mainly helps children of an age before they learn to read. Child psychologists state that the upper age limit is that of 7 to 8 years (Mac Naughton, 2020: 85). The youngest is, of course, the one where young children understand the meaning of what we tell them, namely 3 to 4 (Mac Naughton 2020, 87).

Generally, it is unnatural for children over 8 to want to listen to fairy tales. Nonetheless, we have also seen adults - both middle-aged and elderly - wanting to listen to a fairy tale, perhaps because it takes them back to their childhoods. Besides, the fact that adults go to the cinema or the theatre is certainly because they want to watch a different kind of fairy tale.

iii. Intelligence

The concept of intelligence is ambiguous and quite misunderstood in the field of Education. It has a lot to do with what we call “charisma”, something to which the Greek Schools are not oriented. Storytelling is an indirect “tool” for discovering such elements. We can tell if a child is smart by how much the child intervenes in the storytelling - or even through the action, i.e., the dramatization of the fairy tale - with quality questions or gestures or even suggestions. When children are smart in storytelling, they have a chance of becoming smart in other aspects of their lives (Sotiropoulou-Zormpala 2020, 120). They will project this on many levels or in other parts of their later lives: occupation, family, development, successes or failures of any kind, social life.

Conclusions

Narrative techniques are taught in higher education institutions, with the aim of making students - tomorrow's teachers - attractive to their future audience-pupils. Fairy tale narration techniques are diverse and demanding. They involve the body, the voice, but also the mental mood/ability of the narrator to be put before an audience-pupils and become as dynamic a narrator as possible. Storytellers must have assimilated and conquered all kinds of intelligence (verbal, physical, interpersonal, etc.) to a sufficient degree before telling any story, in order to properly convey to young children what we described above. In this sense and in accordance with the above, storytellers must study the intrinsic elements of a fairy tale and process them in order to attract the attention of their listeners/viewers. They should also investigate elements of their audience, namely ages, degrees of intelligence, availability to listen to fairy tales. At the same time, it is good to constantly improve both movement and speech, but also to observe/analyse other narrators, aiming to have constant mutual information and interaction.

References

- Altrichter, H., and Posch, P. 2001. *Teachers Investigate Their Work. An Introduction to Action Research across the Professions*. Athens: Metaichmio.
- Gardner, H. 2011. *Frames of Mind. The theory of Multiple Intelligence and the Arts*. New York, NY: Basic Books.
- Gargalianos, S. 2020. *Theatrical Education in Primary Education*. Thessaloniki: Kyriakidis Brothers.
- Gargalianos, S. 2021. *Observation Sheets*, Department of Early Childhood Education, University of Western Macedonia, 2014-2021, questions about the ideal duration of a narration.
- Heril, A., and Megrier, D. 2001. *Etraiement à L'improvisation Théâtrale*. Paris: Retz.
- Landier, J-C, and Barret, G. 1999. *Expression Dramatique. Théâtre*. Paris: Hatier.
- Legrand, M. 2004. *Sortir au Théâtre à L'école Primaire*. Paris: Hachette.
- Mac Naughton, G. 2020. *Shaping Early Childhood*. Athens: Pedio. Children. Wadsworth: Cengage Learning.
- Pavis, P. 2006. *Theatre Dictionary*. Athens: Gutenberg.
- Quentin, G. 2004. *Enseigner Avec Aisance Grace au Théâtre*. Lyon: Chroniques Sociales.
- Sotiropoulou-Zorbala, M. 2020. *Incorporating the Arts into Education*. Athens: Pedio.
- Tsingou, S. 2021. *Fairy tale narration techniques*. Seminar at the 1st Online Storytelling Festival. Thessaloniki-Florina. 2021.

The Contemporary Debates on Conservative Family: The Case of the Istanbul Convention

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ABSTRACT: In 2011, 11 May, Council of Europe Convention on preventing and combating violence against women and domestic violence was signed in Istanbul and Turkey was the first country to sign the Convention which entered into force in 2014, August, by the initiatives of ruling government of Justice and Development Party. The Convention, which is the first binding document on violence against women and domestic violence in the international arena, redefines certain concepts such as woman, domestic violence, violence against woman and gender. This redefinition brought about certain legal amendments and the most prominent one was the No 6284 Law on Protection of Family and Prevention of Violence Against Women. While many feminist NGOs and groups, by drawing attention to the historical and traditional context of the violence, construe the convention as a step towards support and remedial the women's rights, and supported the Convention, for some conservative groups the Convention became the potent symbol attacks to family institution through the intervening years. Hence, during the writing process of this article, on March 22, 2021, Turkish Republic declared unilateral cancellation by a presidential decree. Yet still, the debates go on. This paper intends to analyze the arguments of conservative groups on the Convention.

KEYWORDS: Conservatism, feminism, family, the Istanbul Convention

Introduction

The world in the first quarter of the twenty-first century is tremendously different from what it was even a few decades ago. Societies, families, and individuals tackle the issue of change 'caught between yesterday's norms, today's new realities and an uncertain future.' (Skolnick & Skolnick 2009, 11)

"Among all the changes going on today, none are more important than those happening in our personal lives—in sexuality, emotional life, marriage and the family. There is a global revolution going on in how we think of ourselves and how we form ties and connections with others. It is a revolution advancing unevenly in different regions and cultures, with many resistances."(Giddens 2006, 247)

Says Giddens about the transformation of families and describe it as the "the most difficult and disturbing transformations of all" due to the unforeseen ratio of anxieties and disadvantages. In that sense, the debates on families are universal in variety of ways. Although there is a dramatic change of families in last several decades, there is no consensus on what the changes refer to. Furthermore, not only different disciplines such as sociology, anthropology, history, archaeology, economics, genetics and so on touch on the familial issues, religious and ethical authorities also lay claims which turns family studies into an interdisciplinary, disputed, and contested area. Accordingly, the question of how to define a family becomes a stormy political issue.

In line with the rest of the world, the conservative family and women in Turkey have been symbolizing changing meanings for different groups depending on changing political contexts since the establishment of the Republic. These meanings have been attributed by second or third parties on behalf of the women themselves. However different from earlier decades, during the last few decades, women have been experiencing a transformation together with the rest of the society. This transformation engaged the women with the concepts of individuality, identity, objectification, secularism, and normalization which

directly affects the nature of the family. As a result of this process, approaching to the religious women as if a homogenous group is no longer possible. The diverseness of attitudes, worldviews and lifestyles precludes to mention the Muslim women as a united category.

As the world has been changing irreversibly, the family faced with myriad of challenges, yet in Turkey, these challenges were degraded to a matter of policy making and became a hot topic in which many parties take part in intellectuals, academia, and media. The critiques consolidated around the issue of the Istanbul Convention. This article intends to analyze both the pro and con arguments about the convention that also frame the historical trajectory of conservative movement in Turkey. While doing that, the arguments that takes place on media will be evaluated together with the views of the prominent figures among intellectuals and NGOs.

Conservative Thought on Family

For conservative thought, the society is an entity constituted by various institutions and norms and the most vital institution is family. The defective individual, to choose the right and wrong and to fulfill its psychological and physical needs in legitimate ways, requires the institutional support of the family. In that sense, family, as an indispensable value of the traditional society is currently experiencing a structural change and risk of dissolution which means the disappearance of the building block that holds the society as an organic unity and provides the order of the society. Hence, conservative thought approached all the transformations cautiously and protect the family institution in an absolute manner to protect the society from the potential risks they convey. (Özipek 2011, 93–94)

In addition to this, conservatism protect the society as opposed to the individual, religion as opposed to reason, morality as opposed to liberation and tradition as opposed to modernity. The secularization of religious practices and the recession of religious affiliations caused cultural and moral weakening that paved the way for the breakdown of traditional families, increasing divorce rates, illegitimacy and spread of adultery. Correspondingly, the society must face the future generations to raise with father absence, school failure, poverty, tendency to crime, drug use, unemployment, and antisocial behavior. According to conservative perspective, the adults' short-term personal desires, selfishness and policy supports deepen the social illnesses. The only remedies of ongoing problems, for conservatives are restoring family commitments with religious faith and re-institutionalizing marriage institution by revitalizing values. (Giele 2009, 76–97)

In Turkey, together with the electoral alliance of the Justice and Development Party and Nationalist Movement Party in 2018, the Islamist, conservative and nationalist electors united and that eventually paved the way for a contention between men and women in due course. Although the Convention was put in the action in 2014, these groups began to attack to the Convention with the claim of destroying the family. The groups that support assumed natural responsibilities and roles that imposed to women by men traditionally, found the Convention incongruous with the women's nature. As religion, morality and politics could easily intervene to the issues of womanhood, this transformation brought about by the convention impetuously targeted and criticized heavily by the conservative groups.

Women Demands Faced Off Tradition

In Turkey, women faced headscarf ban in public and education institutions and labeled as a threat to the secular nature of the state for more than four decades and the ban was lifted in the 2013 with strong support of men to women. However, unlike the mutual understanding on the issue of headscarf ban, the men could not foresee the forthcoming demands of the well-educated and working women which created one of the largest divisions among conservative

groups. Contradicting with men's support to the right to work and education of the veiled women, the contemporary demands of the women were perceived as the feminist demands and the signals of corruption. The Muslim women were situated in an unchangeable symbolic domain by the men, and this dynamic transformation of the women by producing their own cultural and ideological codes as equal societal actors as men were reacted against. This reaction became violent when the interests of the men and women began to collide in different spheres. As the world has been changing irreversibly, the family faced with myriad of challenges which were discussed and among the women NGOs and the crises of families aimed to be overcome through strengthening the women. However, what conservative men did was turn a deaf ear to the actual demands and problems of the youth and women by preferring comfort of criticizing the ongoing transformation instead of offering feasible suggestions. The critiques consolidated around the issue of the Istanbul Convention.

The Conservative Critiques on Convention

The concepts of gender equality and domestic violence created tensions among the conservative men. The term of domestic violence was binding for all people who live together under the same roof for any reason without obligation of being a family. Not only married couples, but all partnerships are subjects of the Convention. In addition to this, the Convention does not merely refer to family violence, but also includes out-of-home oppression to its scope. Which means, the Convention requires providing security for women not only at home but also at the public spaces. Although this item was translated into Turkish as '*aile içi şiddet*' (family violence), not the translation but the original manuscript is legally binding. Furthermore, the practices proved that the authorities tend to approach the issue as domestic violence.

This tendency became clear in the case of a popular singer who preferred charges of battery, physical coercion, and psychological violence against her partner. The Minister of the Family, Labor and Social Services called the singer and thanked to her for not staying silent against violence and stated that as ministry, they were determined to fight against victimization of women.(Ntv, n.d.) In a short while, the Ministry involved the case and as a result, the perpetrator was sentenced.

This support of the Minister was criticized heavily by the right-wing *Yeni Akit* newspaper writers. Bahadıroğlu claims that the Ministry of Family was established to protect the family, not to support those who wished to destroy it and adds that the family is the strongest institution of Turkey despite all these attacks. "If I were her, I would ask whether her husband beat him, and when I was replied 'not my husband but my boyfriend' I would hang up on her", he says and adds that, he was fed up with all these so-called artists to marry and divorce, change their partners constantly, extramarital lives, drug addictions, scandals, homosexuality, aesthetic surgeries, nakedness, ignorance, keep courts busy unnecessarily, living as if teasing the sacred values of the society.(Bahadıroğlu 2018) As a result, according to this group, the Convention is the part of a transcendent plan to destroy the moral values and ethics of the country.

According to Article 4, "...the victims shall be secured without discrimination on any ground such as sex, gender, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status." (Council of Europe, n.d.) The term of sexual orientation in this article creates concerns about corruption of the future generations. While the only reference is about protection of victims without discrimination, according to conservatives, description of LGBT individuals as "humans" by the state presents a threat of degeneration.(Bergen 2019) Using the sexless term of partnership is another bothering issue for the conservatives who claim that

this term enables to regulation and liberty of LGBT individuals. “The approach that accepts homosexuality as a natural human right”, says Dilipak, “soon enough will accept gay marriage too”.(Dilipak 2019) Akan, by criticizing handling the issue of social gender equality as equality between men and women, claims that the fact of the matter is creating a misidentified and corrupt generation distant from ideology, politics, religion and tradition by collapsing the family (“Murat Akan: LGBT-İ Barış, Sevgi, Demokrasi, Özgürlük” ile Süslenerek Meşrulaştırılıyor” 2019)

The 6284 Law on the Protection of Family and Prevention of Violence Against Women is one of the most discussed issues about the Convention, which signifies the importance of the Convention in domestic law. For feminist groups, the laws are not enough to protect women and they do not correspond gender mainstreaming policies, which provide a basis for combating violence against women in the Convention, although there are some articles that underline equality of women and men (Ezgi 2014). Still, the conservative groups are harshly challenging this law and blame it for destroying families.

The conservative newspapers such as *Milli Gazete* and *Yeni Akit* give wide publicity to this article by labeling it as “oppression code” claiming that it oppresses families. Declarations of the conservative NGOs and prominent figures about the law were frequently published in these platforms. The ones who support the Convention were also published and criticized heavily even if they have sympathy for the ruling party. In that sense it could be said that the issue of women’s rights drew the lines of being a conservative free from political preferences. The code was blamed for destroying the nature of the women by claiming absolute equality between men and women. The critiques state that the Convention deviously damages the society by using the concepts of political participation of women, the oppression of women, the protection of women, freedom and equality as tools that sounds nice for them. Furthermore, statistical data of increasing divorces is used to demonstrate the fatal consequences of the legal arrangement.(“İstanbul Sözleşmesi aile bağlarını kopartıyor,” 2018)

Dilipak, going one step forward and claims that, everybody joins this “War Against Family” including United Nations, European Union, Ministry of National Education, Ministry of Family, Presidency of Religious Affairs, Council of Higher Education, NGOs. Moreover, he adds, despite their divergences on other issues, all political parties make consensus about these disastrous laws. By reminding verses of the Qur’an about not to cooperate about wrongfulness and injustice yet goodness and *taqwa* (piousness), warns the government party about losing support in case of insistence on these policies.(Dilipak 2019)

The femicides in Turkey dramatically increased from 127 in 2011 to 143 in 2012, 229 in 2013, 289 in 2014, 293 in 2015, 284 in 2016, 349 in 2017, 402 in 2018, and 410 in 2019. According to feminist groups, in cases of carrying out the law against violence properly, it protects women, nevertheless in many cases women suffer from misapplication.(“Kadın Cinayetlerini Durduracağız Platformu” n.d.) On the contrary, the conservative group blames the Law Nr:6284 for driving men mad by granting more rights to women.(Arslan 2017b) On account of the allegation that the law is prepared by the imported ideas ignoring the traditional Turkish family structure, it promotes the women murders.(Arslan 2018) “As a poor copy of the Western policies, this law is a dynamite placed into the homes that triggers family tragedies”, says Arslan, and states that this law ruptures the father from the home.(Arslan 2017a) This assertion stems a principle of “women’s testimony is fundamental”, which meant the greatest jeopardy for the conservative men.

The principle of “women’s testimony is fundamental” has been emerged as a feminist demand to protect the victims of the sexual assaults. As these assaults by its very nature takes place without witnesses or evidence, when the victims of this kind of attack apply to court, the accused generally tended to walk free due to failure of evidence. It should be added that, the sexual assaults that go unpunished because of sexist prejudices also includes marital rape. In order to prevent these situations, by paying regard to the position of the accusant, the courts

began to adopt this principle recently. This principle aimed to preclude women's victimization, is insufficient to protect women and paved the way for men's unjust suffering in case of abuse. This situation is regarded as the violation of the presumption of innocence, which imposes on the prosecution the obligation of proving the charge and guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, by the conservatives. Furthermore, the stories of the men victims are highlighted to criticize the law by making no reference to women's oppression.

According to the new Criminal Code, sexual harassment, sexual assault, and marital rape are heavily punished. However, it should be stated that, there is no consensus about how to refer to the principle of "women's testimony is fundamental" and it is not taken for granted in judgement. In Turkish criminal procedure, conscientious testimony system is adopted to which provides liberty to the judge and judicial discretion to apply to this principle in case of lack of evidence (Kırbaş Canikoğlu 2015). Despite its debated position, this principle is treated as the mainstream practice which considered as the calamity of the Law. "It is observed that 985 denuncements out of 1000 are slandering which ended up by removal of men from homes and still no women were accused for calumny" says Ramazan Tan, the vice president of BABA-DER and adds, "these laws imported from the West are vitiating the society"(Çağlar 2019).

The writers of this conservative group are in cahoots about the violation of men's rights through the Convention and the most fanatic advocator of men's rights is Sema Maraşlı who blame the Islamist women with demands as man-haters. In the Convention, the women NGOs are crucial actors to fight against violence and oppression, hence they should be efficiently supported and strengthened to raise awareness of the public. Maraşlı has been expressing severe criticisms to the NGOs found by the Islamist women and directly targets KADEM (Women and Democracy Association) which was established Sümeyye Erdoğan, the daughter of the President Erdoğan. Further, she wrote an open letter to the President about revisioning the laws on family and bring them into conformity with the societal norms. By claiming that the laws are the means of oppression and they were not based upon justice, but they intend to curry favor with the European Union and the enemies of religion and the state, she warns about the heavy price of liken a Muslim society to non-Muslim ones (Maraşlı, 2019).

Within the scope of the law, in order to take acute precautions in case of violence, the court can apply temporary debarment to men to protect women without asking for evidence. However, in case of trial, evidence is required to prove violence. Referring to this implementation, Maraşlı states that, "in this country, hundreds of thousands of men were thrown out of their homes unjustly by only a phone call of the women, without any evidence or document, despite they did not engage in violence but only scolded each other, on the pretext of psychological violence". Further, she adds, "if the husband wishes to make peace with his wife, he was imposed fine and sentenced to imprisonment... these sanctions are against the constitution laws, against human rights, against Islam already"("Sema Maraşlı'dan Cumhurbaşkanı'na Açık Mektup: Aileyle İlgili Kanunları Gözden Geçirin" 2018). She points out that the law paved way for women's terror and it is the greatest danger for the society because it is a gendered law that turn wives against their husbands; it is unjust; it legalize homosexuality; it destroys family; it names the men as violator; it initiates public prosecution to family disputes; it put the laws under women's order against men; it break up family of the youth; it enables Western countries to intervene our domestic policies (Maraşlı 2019).

From the perspective of this group, the violence against women has increased dramatically throughout these policies instead of decreasing it. By ignoring the high rates of oppression against women, they ask, why the policies protect the women from men but not the other way around. Accordingly, men began to use violence because of the indignation caused by these policies. These writers are supported by certain NGOs such as *Yedi Hilal Derneği* (The Association of Yedi Hilal) and *Türkiye Aile Meclisi* (Turkish Family

Assembly). Adem Çevik, the spokesmen of Turkish Family Assembly claims that the number of women homicides soared from 121 in pre-Conviction time to 400. In 5 years, he says, “1 million 973 thousand men have been removed from their homes in the last five years and this is a national security problem and a threat for the future of the country. When considered with their families, the number of 2 million means exposure of 5-6 million people which meant a disaster for the state economy. The prevention of the men from seeing their children paved the way for murders and led the children to use drugs.” By criticizing the Ministry of the Family harshly, he claims that the previous minister was unseated because she did not lend countenance to the feminist policies and the Convention, however, the current one does, and the ministry does not approach family institution as ‘family’ but intends to strengthen only the women. He says, “we should say ‘no’ to all kinds of violence and the gendered approach of the state is state violence. By immediately desisting from these feminist politics, he offers returning to national values and supporting motherhood”(Aşkın 2019).

Dignification of motherhood and condemning the women’s employment is another attitude of the conservative groups. Şevki Yılmaz offers “The Islam Convention” as the mere solution for humanity instead of “The Istanbul Convention”, that aims to destroy the family and the state by dethroning women from the dignity of motherhood and identifies the women employment program as the suicide of family. In order to protect the women from the traps of ‘independence and liberty’ he calls to the path of Qur’an and sunnah that prevents both kingdom of men and queenhood of women that stems from the illness of feminism. “The women’s employment at home is peace, richness and happiness till to the Heaven” he says (Ş. Yılmaz 2019).

This argument is adopted by the Women’s Branch Head of Felicity Party Ebru Asiltürk who reacts to the financial incentives to mothers in regard of separating the children from their mothers (Vefa 2019). “By this way, the mothers will be supported to leave their children to strangers which will eventually led to the emergence of a generation who were brought up lovelessly with a tendency to violence.” says Maraşlı. Adnan Kalkan , the head of *Aile Bilim Kültür ve Eğitim Derneği* (The Association of Family, Science, Culture and Education) adds, mothers grow up the future generations by being a role model, instead of working women, stay-at-home moms who are needy should be financially supported and motherhood should be motivated by the state policies (Bilir 2019).

In all these debates, Yusuf Kaplan, a prominent intellectual and academician of the conservatives gave support to the attacks against women’s NGOs by warning against the threat of homosexuality which aims to destroy the biological sexes. He claims that this devious virus first of all intends to destroy the family and then the sexes and the human beings and instead, the societies will turn into cyborg societies which are easier to rule. The postmodern third world women’s movement, by impelling women out of their homes, masculinized them and alienated them from their femininity by the promise of women rights over the issue of women’s bodies and liberty of sexuality, which eventually paved the way for the emergence of a third sex. In order to prevent the collapse of family, the last fortress of humanity, he stresses the importance of recalling the Istanbul Convention (Kaplan 2019). When he directly attacked to KADEM, Ministry of Education and Ministry of Family on social media, different parties began to take part in this discussion and numerous hashtags about family life and the moral values became trend topics and Kaplan began to gain support from the conservatives and prominent figures such as İhsan Şenocak, Abdurrahman Dilipak, Ahmet Şimşirgil and many others.

Responses to Critiques

The accused group did not stay silent to these accusations and began answering them in return. As direct addressee of the critiques, conservative women rights NGO KADEM refuses the

accusations about international funding and redefines feminist terminology from the conservative point of view. Instead of using the term of “social gender equality”, they introduce concept of “social gender justice” that pays regard to the biological differences between the sexes and demands by reference to religious doctrines. Declaring an open opposition to sexual deviance, she challenges the idea of associating the term of social gender with homosexuality. In terms of the Istanbul Convention, she claims that the unrivalled thing is not the Convention, but fighting with violence against women and it should be supported by legal arrangements (Okur Gümrukçuoğlu 2019). This approach can be considered as the common ground of this conservative group who also feel anxiety about the current issues of family institution yet deal with the issue in a broader perspective with multiple aspects instead of oversimplifying it through certain legal changes or institutions. The second-generation women of the Islamist women’s movement, such as, Cihan Aktaş, Fatma Barbarosoğlu, Ayşe Böhürler, Nazife Şişman, Hidayet Şefkatli Tuksal who created a switch in 1990s stand behind this approach to a large extend. Unlike the first generation that emerged during the 1970s and created arguments against the secular system together with men, they intended to create a synthesis of tradition and modernity and began to criticize the men of the Islamist community severely. By utilizing feminist theory, they refused the patriarchal comments on women and subordination by men (Z. Yılmaz 2015). As a colleague from this generation, Ayşe Böhürler wrote:

“...For many years, I have seen that the religious women are fighting in two fronts, against seculars and against the bigot men in our own side and I realized that this war is still continuing... These accusations were not different from the ones that were prevalent 30-40 years ago. There was no Istanbul Convention, but the whole charges of ‘family is destroying’ were directed to us”(Böhürler 2019a).

Then she adds that discussing multilayered problems of family merely from the point of a certain NGO or a convention is ridiculous. Böhürler criticized the conservative community for being deaf to the women’s issues not only in Turkey, but all the countries she travelled and added that not even a single NGO was established in the countries that have the highest rates of violence against women. Because they approach women issue as concerns of leftist women imported from the West, they ignore high murder rates. A proper Muslim should only think of decreasing these horrible numbers of violence, if not, this means that this group finds the base for a political opposition and asks, why they make opposition to the political party through the women’s issues (Böhürler 2019b).

Another colleague İsmail Kılıçarslan also positioned against the Islamist men who are easily calling the tradition in case of women’s issues, despite their secular attitudes in financial issues. ‘It is the side effect of defining religion and religiosity as “a power domain” instead of “an exact way of life to live”, he says and adds that the easiest fierceness is the one that is enforced to the “mutes and defenseless”. He also comments that in today’s conditions, Turkish religious men hardly earn a living for their families without the financial support of their wives, and this is a quite modern situation. However, says Kılıçarslan, instead of facing this reality, when it comes to women, they refer to the most ancient and threadbare traditions under the name of religion because it is easier (Kılıçarslan 2019b). In terms of Kaplan’s critique, he tries to arbitrate and claims that both groups are actually on the same side about the crises of families whose problems stem fundamentally from secularism. He invites all groups to gather on this issue and began converse in correct way (Kılıçarslan 2019a).

In oppose these well-intentioned interpretations, Nihal Bengisu Karaca openly calls this attitude misogyny instead of hidden opposition to the ruling party and reminds hundreds of women who were killed because of the laws that does not find the principle of “women’s testimony is fundamental” adequate. She states that they are against all the good intentions and practices of the women NGOs just because the legal and social gains of the women put a spanner in the works of men (Karaca 2019). Yıldız Ramazanoğlu blames the men for not

seeing one step beyond while fighting against the ban on headscarf and claims that it was obvious the well-educated girls would take place in the public spaces and transform it with their demands. She asserts that estranging to families under the wheels of capitalism is prevalent for men more than women and it is ridiculous to stamp women as homewreckers while the father's devastating neglect is proven by statistical data. "The division of labor inside the house has no ontological reasoning and it is all about culture", she says and claims that fair relationships and foresight are not possible unless we survive from the illness of gendered domination (Ramazanoğlu 2018).

Looking from a broader historical perspective to men's positioning in families, Fatma Barbarosoğlu claims that the suffering of the family is not peculiar to last thirty years but its problems date back to Industrial Revolution and the most injured is the fatherhood institution which is replaced by the state. This is the origin of collision because in Islam, the religion settles fathers to protect the family and transfer values to the next generations. In this situation, interestingly the fathers handed over all familial responsibilities to women just like the Western men, she says, and this is the reaction to the women's changing career planning (Barbarosoğlu 2019c). She points out to the decrescent men identity in order to understand violence. Moreover, she warns about the effects of internet revolution which builds a new perception of time, place and culture while contravening the limits of privacy; and calls to consider about the outcomes of corroding social norms (Barbarosoğlu 2019a).

Barbarosoğlu points out to the role of conservative writers together with "YouTube preachers" that constantly teach how to be a good mother and father to children and how to protect their husbands from the hell, to the women and the men have no objection to this situation. "The men just want their wives to achieve these goals without money, and if needed, they want their wives to earn it; and once the women began working out of their homes, other men try to fix the Turkish family structure through giving seminars", she says (Barbarosoğlu 2019b). Another critique oriented towards the conservative wise men is their unreliableness about the women oppression. Although the women had a great deal of trouble, raise their voices, and worked too much to prevent violence, still, if the pressure of the social media and the society releases, the suspects began to be released and the men began finding excuses to the violence by blaming women. Ramazanoğlu, not only blames the conservative men, but also some group of women preachers and spokeswomen who even do not have time to go to their homes yet dehumanize working women in their seminars. These writers all warn about the conspiracy theories about international plans that aim to destroy the family and invite all parties to be realistic about the momentousness of the family issues and reconsider the role of tradition in case of gendered issues.

In addition to intra community prejudices, Karaca agrees with Böhürler in terms of battling on two fronts and expresses that she wished to see the support of feminist women, who were aware of the attacks that came from their own community, to KADEM by understanding how hard conditions the conservative women face during their struggle. Nonetheless, she says, "they loved the hidden possibility of critique against the President over KADEM and preferred to gloat over". This stand of feminist NGOs are also criticized by Hidayet Tuksal who wants to confront with and expects apology from the feminist movement. She claimed that, despite three-generations-long ban of headscarf in Turkey, the feminists did not manifest a solid opposition instead of a few reflections. Astonished at the espousal of modernist/Islamophobic recitations adamantly despite their hypercritical attitude, she realized that this progressivist minority group of women can only sustain their moral and material advantages throughout protecting a certain distance between themselves and the "reactionist", "conservative", "religious" segments. That is why, still today the conservative women do not trust to feminist movement who stayed silent during their hard times (Şefkatli Tuksal 2013).

Conclusion

The winner of the ongoing debates is the nationalist-conservative alliance of Justice and Development Party and Nationalist Movement Party. With the presidential decree published in the Official Gazette on March 20, 2021, it was decided to terminate the Convention for Turkey. Abrogation was criticized by feminist NGOs, conservative women's NGOs, opposition parties, foreign presidents, Council of Europe and many different groups inside and outside country. In the official statement made on 21 March 2021, the Presidency's Directorate of Communications claimed that the withdrawal was made in accordance with the 80th article of the contract. The government officials claimed that Turkish Legal System is the protector of the women's rights and a new legal arrangement, a domestic and national one, will be done for further protection.

References

- Arslan, F. (2017a, November 11). 6284 Babayı Aileden Koparıyor. Retrieved from <https://www.yeniakit.com.tr/haber/6284-cikti-kadin-cinayetleri-patladi-401762.html>.
- Arslan, F. (2017b, December 5). 6284 Çıktı, Kadın Cinayetleri Patladı. Retrieved from <https://www.yeniakit.com.tr/haber/6284-cikti-kadin-cinayetleri-patladi-401762.html>.
- Arslan, F. (2018, February 6). 6284'ten Hala Kan Damlıyor. Retrieved from <https://www.yeniakit.com.tr/haber/6284ten-hala-kan-damliyor-421236.html>.
- Aşkın, N. (2019). 5 yılda 2 milyon erkek evden uzaklaştırıldı. Retrieved November 20, 2019, from <https://ilkha.com/6284-sayili-kanun-ve-genc-evlilik-magdurlari/5-yilda-2-milyon-erkek-evden-uzaklastirildi-109090>.
- Bahadıroğlu, Y. (2018). “Salâ” ve “Sıla”! Retrieved from <https://www.yeniakit.com.tr/yazarlar/yavuz-bahadiroglu/sala-ve-sila-26371.html>.
- Barbarosoğlu, F. (2019a, June 7). Dün ile gün arasında tasvir edilemeyen gündelik hayat boşluğu. *Yeni Şafak*. Retrieved from <https://www.yenisafak.com/yazarlar/fatmabarbarosoglu/dun-ile-gun-arasinda-tasvir-edilemeyen-gundelik-hayat-boslugu-2050624>.
- Barbarosoğlu, F. (2019b, July 3). Aile Zor Durumda mı? *Yeni Şafak*. Retrieved from <https://www.yenisafak.com/yazarlar/fatmabarbarosoglu/aile-zor-durumda-mi-2051919>.
- Barbarosoğlu, F. (2019c, July 10). Aile, Endüstri Devriminden bu yana darbe alıyor... *Yeni Şafak*. Retrieved from <https://www.yenisafak.com/yazarlar/fatmabarbarosoglu/aile-endustri-devriminden-bu-yana-darbe-aliyor-2051996>.
- Bergen, L. (2019, July 8). Nesebi bozan teknoloji, İstanbul sözleşmesi ve LGBT. *Gerçek Hayat*.
- Bilir, H. (2019, November 13). Ev Hanımları Desteklensin. *Yeni Akit*. Retrieved from <https://www.yeniakit.com.tr/haber/ev-hanimlari-desteklensin-953309.html>.
- Böhürler, A. (2019a, July 13). Başımıza İstanbul sözleşmesi kadar taş düşsün! *Yeni Şafak*. Retrieved from <https://www.yenisafak.com/yazarlar/aysebohurler/basiniza-istanbul-sozlesmesi-kadar-tas-dussun-2052032>.
- Böhürler, A. (2019b, July 20). Muhalefetin yeni aracı: Kadına yönelik şiddeti savunmak.... *Yeni Şafak*. Retrieved from <https://www.yenisafak.com/yazarlar/aysebohurler/muhalefetin-yeni-araci-kadina-yonelik-siddeti-savunmak-2052113>.
- Çağlar, O. (2019, July 30). BABA-DER Başkan Yardımcısı Ramazan Tan'dan çarpıcı tespit: 6284 sayılı yasa aileleri yıkım projesi olmuştur. Retrieved from <https://www.yeniakit.com.tr/video/baba-der-baskan-yardimcisi-ramazan-tandan-carpici-tespit-6284-sayili-yasa-aileleri-yikim-projesi-olmustur-36112.html>.
- Council of Europe. (n.d.). Text of the Convention. Retrieved June 4, 2021, from <https://www.coe.int/en/web/istanbul-convention/text-of-the-convention>.
- Dilipak, A. (2019, November 29). Önce Aile! Retrieved from <https://www.yeniakit.com.tr/yazarlar/abdurrahman-dilipak/once-aile-30482.html>.
- Ezgi, E. D. (2014). *İstanbul Sözleşmesi'nin İç Hukuk Bakımından İncelenmesi ve Sözleşme'nin Uygulanmasında Kadının Statüsü Genel Müdürlüğü'nün Rolü*. T.C. AİLE VE SOSYAL POLİTİKALAR BAKANLIĞI Kadının Statüsü Genel Müdürlüğü. <https://doi.org/10.4324/9781315853178>.
- Gencer, B. (2013). Şeriatçılıktan Medeniyetçiliğe İslâmcılık: Bir İslâmcılık Tipolojisine Doğru. In İ. Kara & A. Öz (Eds.), *Türkiye'de İslamcılık Düşüncesi ve Hareketi* (pp. 69–99). İstanbul: Zeytinburnu Belediyesi.
- Giddens, A. (2006). *Sociology* (5th ed.). Cambridge, Malden: Polity Press. Retrieved from <https://books.google.com.tr/books?id=vbu2gis26C0C&printsec=frontcover&hl=tr#v=onepage&q&f=false>.

- Giele, J. Z. (2009). Decline of the Family: Conservative, Liberal, and Feminist Views. In S. A. Skolnick & H. J. Skolnick (Eds.), *Family in Transition* (Fifteenth, pp. 76–97). Boston: Pearson.
- İstanbul Sözleşmesi aile bağlarını kopartıyor. (2018, October 8). *Milli Gazete*. Retrieved from <https://www.milligazete.com.tr/haber/3185533/istanbul-sozlesmesi-aile-baglarini-kopartiyor>
- Kadın Cinayetlerini Durduracağız Platformu. (n.d.).
- Kaplan, Y. (2019, July 22). Ailenin çökmesi, insan türünün sonunu getirebilir... *Yeni Şafak*. Retrieved from <https://www.yenisafak.com/yazarlar/yusufkaplan/ailenin-cokmesi-insan-turunun-sonunu-getirebilir-2052135>.
- Karaca, N. B. (2019, July 22). Kadem Tartışması: Gizli Ak Parti Karşıtlığı Değil Bildiğin Kadın Düşmanlığı. *Habertürk*. Retrieved from <https://www.haberturk.com/yazarlar/nihal-bengisu-karaca/2506521-kadem-tartismasi-gizli-ak-parti-karsitligi-degil-bildigin-kadin-dusmanligi>.
- Kılıçarslan, İ. (2019a, July 23). İstanbul Sözleşmesi Kadınları Korur mu? *Yeni Şafak*. Retrieved from <https://www.yenisafak.com/yazarlar/ismailkilicarslan/istanbul-sozlesmesi-kadinlari-korur-mu-2052149>.
- Kılıçarslan, İ. (2019b, October 8). Kadınlar Olmasa Çok Güzel Din Aslında... *Yeni Şafak*. Retrieved from <https://www.yenisafak.com/yazarlar/ismailkilicarslan/kadinlar-olmasa-cok-guzel-din-aslinda-2052984>.
- Kırbaç Canikoğlu, S. (2015). “Kadının Beyanı Esastır”: Çok Bilinmeyenli Bir Denklem. *Ankara Barosu Dergisi*, 4, 229–253. Retrieved from <https://dergipark.org.tr/tr/download/article-file/398476>.
- Maraşlı, S. (2019). İstanbul Sözleşmesi ve 6284’e Neden Karşısız? Retrieved July 20, 2019, from <http://www.cocukale.net/istanbul-sozlesmesi-ve-6284-e-neden-karsiyiz/>.
- Mollaer, F. (2009). *Muhafazakârlığın İki Yüü*. İstanbul: Dergâh Yayınları.
- Murat Akan: LGBT-İ Barış, Sevgi, Demokrasi, Özgürlük” ile Süslenerek Meşrulaştırılıyor. (2019). *Baran*, (651). Retrieved from <http://www.barandergisi.net/roportaj/murat-akan-lgbt-i-baris-sevgi-demokrasi-ozgurluk-ile-suslenerek-mesrulastiriliyor-h5162.html>.
- Ntv. (n.d.). Ahmet Kural ile Sıla Gençoğlu davasına Aile ve Sosyal Politikalar Bakanlığı müdahil oldu. Retrieved June 4, 2021.
- Okur Gümrükçüoğlu, S. (2019). Kadem Başkanından Kamuoyu Açıklaması. Retrieved July 12, 2019, from <https://kadem.org.tr/kadem-baskanindan-kamuoyu-aciklamasi/>.
- Özipek, B. B. (2011). *Muhafazakârlık Akıl, Toplum, Siyaset* (Fourth Edi). İstanbul: Timaş.
- Ramazanoğlu, Y. (2018, May 30). İslam’ın Kızı, İslam’ın Erkeği. *Serbestiyet*. Retrieved from <http://serbestiyet.com/yazarlar/yildiz-ramazanoglu/slamin-kizi-slamin-erkegi-846604>.
- Şefkatli Tuksal, H. (2013, December 13). Kadın Örgütlerinin İnkâr Politikası. *Serbestiyet*. Retrieved from <http://serbestiyet.com/yazarlar/hidayet-s.-tuksal/kadin-orgutlerinin-inkar-politikasi-131527>.
- Sema Maraşlı’dan Cumhurbaşkanına Açık Mektup: Aileyle İlgili Kanunları Gözden Geçirin. (2018, December 4). Retrieved from <https://www.haksozhaber.net/sema-maraslidancumhurbaskanina-acik-mektupaileyle-iligili-kanunlari-gozden-gecirin-110206h.htm>.
- Skolnick, S. A., & Skolnick, H. J. (Eds.). (2009). Introduction. In *The Family in Transition* (Fifteenth, pp. 1–11). Pearson.
- Vefa, M. (2019, November 19). Çocukları Annelerinden Ayırmayın. Retrieved from <https://www.milligazete.com.tr/haber/3378905/cocuklari-annelerinden-ayirmayin>.
- Yılmaz, Ş. (2019, November 1). “Çare sadece İslam Sözleşmesi!” ne zaman uygulayacağız! Retrieved from https://www.yeniakit.com.tr/yazarlar/sevki-yilmaz/ce-sadeceislam-sozlesmesi-ne-zaman-uygulayacagiz-30224.html?utm_source=gazeteoku&utm_medium=referral.
- Yılmaz, Z. (2015). *Dişil Dindarlık İslamcı Kadın Hareketinin Dönüşümü*. İstanbul: İletişim.

Post-Pandemic: The Working from Home Aspect

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ABSTRACT: The SARS-CoV-2 pandemic which hit the world at the beginning of 2020 has forced humanity to implement many changes in a lot of domains. From the simple everyday grocery shop activities to the way one can perform his work for an employer. As a result, life as we know it suffered a series of transformations, both positive and negative. The current paperwork will analyze the consequences raised by the virus in the area represented by the workforce. By this line of approach, we will take into consideration the legal dispositions that had to be adopted and put into practice, the strategy implemented by both companies and institutions in order to protect the health of their employees, alongside the benefits and the negative results derived from these actions. It is certain that moving the work to an individual's domain has offered him/her an extra amount of time, however the lack of social interaction has left scars on a psychological level. Since one cannot do all the tasks on his own, the work is usually split between team members, but a team cannot be a correct social construct unless social contact is present in real life.

KEYWORDS: post-pandemic, work from home, hollow teams, aftereffects, social skills

The birth and spread of SARS-CoV-2

The year 2019 represented the ending of another decade, many of us not being able to believe or to admit that we were about to step in the third stage of the 21st century. Many companies were making top 10s of the best elements in various domains, from movies to events. The atmosphere was both nostalgic and enthusiastic as we remembered the past and scouted the future with hope. In the euphoric climate of those moments, we became too preoccupied to understand the earliest signal of the disaster about to strike us.

During the month of November, a bat carrying a deadly disease escaped from a laboratory in Wuhan, China. The animal was captured cooked and eaten by a person, and the micro-organism started its infection. It is not clear how the transition from an animal to a human was produced in that short amount of time, given the genetical differences, however it is well known among the scientific community that these types of viruses can spread quickly (Mackenzie 2020, 7).

In December, the Chinese government informed that a new kind of pneumonia was affecting the population in Wuhan, the city being put into isolation shortly after the declaration. On a worldwide scale the consequences of the ignorance manifested by the leaders were making their debut in late February 2020. By the beginning of May 2020, many countries, including the USA and China, implemented states of emergency to contain the infection. Little to no data in regards of the disease made the battle very difficult. In Romania, the National Institute of Public Health defined a case of SARS-CoV-2 as any person who suffers from breathing infection alongside the symptoms of cough, fever and difficult breathing (Dobrescu 2020, 12). In this manner, even if an individual had a normal flu, he could have been suspected and placed into isolation.

In the following months, millions of people around the globe were confirmed of having SARS-CoV-2. As an example, by the middle of August 2020, the COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU) was showing around 15 million confirmed cases, with over 600.000 deaths.

Since we live in a world dominated by globalization where we are all interconnected, it is more than clear that the driving factor of the expansion was caused by this network.

Digitalization and how a part of the workforce was saved

At the beginning of the 1970`s it was predicted that the computers will change the values of our society in an already transforming world, as a result of the technology derived from World War II and the Arms Race. Initially, the domain in which the PC`s would bring a new trend was thought to be education. The student would have access to a larger amount of data, in opposition to the traditional system of learning (Toffler 1973, 254-261).

The computers in conjunction with the birth of the internet brought a planetary network, people all around the globe being able to interact with each other. This was a steppingstone for the materialization of globalization.

Seeing the profit and the benefits when it comes to data storage, messaging and record keeping, and the multinational companies took advantage of this aspect and brought changes within their departments. Employees would work almost fully with digital information in a much easier and efficient manner than the old ways.

In the following decades, a new option was made available for many of the employees and that is to be able to work from home a limited number of days per month. By using a laptop provided by the employer and a good connection via the VPN, one could complete all the tasks from the comfort of his house. This proved to be an attractive possibility, many people choosing to work from home at least once a week.

On a general perspective it was clear that this way of operating will grow soon, however the SARS-CoV-2 pandemic accelerated this transition at an unimaginable rate. By the middle of 2020 almost all the employees in finance, human resources and other similar departments within multinational companies were forced to work from home the entire month, in order to prevent the spread. Unlike the industries in which physical presence was necessary in order to complete the work (car construction, court cases, public order, armed institutions etc.), the work from home aspect helped people keep their jobs and prevent any infections.

An employee would simply log in from their desk and exit once the hours were put in, the only other main concern was shopping for food and clothes, fact which was mostly solved due to the ascendance of online grocery/clothes shopping and delivery.

Implementing this measure made it possible for the multinational companies to stay on a lifeline and keep their employees in their key centers, also reducing the costs for rent at the office locations, the other work sectors having to face drastic measures such as layoffs.

Taking into consideration the information above we can state that working from home procedures helped save time for the employees, not having to travel from home to the office anymore, preserved and respected the health of the people involved with the companies and brought forward a much suitable environment for production growth.

Working from home in Romania, applicable law

The right to work is present in the fundamental law of the Romanian state, a subject of the law being able to choose his/her profession and having the benefit of social protection measures, as an example the ones regarding the safety and health during work (Romanian Constitution, Article 41).

On a complex scale, the right to work can be defined as the freedom of a person to choose his specialization, occupation and the place to work, in or outside the country, with remuneration, work safety procedures in place and stabilization (Deaconu 2011, 263).

The Constitution is a law which provides the principles by which a society should be guided. Each segment of this fundamental document gives birth to a series of law branches, based on the object of regulation, thus we can be in the in the presence of constitutional law, civil law, criminal law, labor law and so on (Popa 2008, 130).

Labor law is the domain which studies the regulations put in place for the workforce. Universally it can be explained as the ensemble of legal norms which govern the relations in the process of creating, executing, modifying and terminating a legal employment report, based on the employment contract (Ștefănescu 2000, 28).

In practice, a special disposition was adopted by the Romanian Parliament which contains several elements that need to be covered in order for the work from home to be legally recognized. In this manner, the employment contract requires to be modified by adding an additional act containing the statement that the employee will work from home, the address from where he/she will perform the assigned tasks, the work schedule, how the employer will verify if the individual performs his duties, the method by which the working hours will be accounted, the responsibilities agreed by both parts, the obligation of the employer to ensure the equipment, the measures by which the employee will not be isolated from his colleagues and the costs up for deduction (Law no 81/2018, Article 5).

This regulation being present since 2018 proves that Romania has kept up with the latest tendencies when it comes to modern work. Having in mind the continuous expansion and advancement in technology, the legislator saw fitting to provide a legal transcription for this asset for the workers to make a living even from home, if any situation had imposed such an approach.

The worth of this initiative was most visible during the pandemic, when the equipment and connection was installed in someone's personal place after only completing an additional act, many possible SARS-CoV-2 cases being avoided.

Social scars

As it has been with any innovation or invention throughout history, working from home has a series of advantages and a series of disadvantages. If time is saved and safety during the pandemic is enforced, the human brain can suffer great consequences due to isolation.

By nature, we are social creatures therefore we require staying amongst our kind in order to ensure the satisfaction of basic and superior needs. In this manner, if a person has the power to cover his necessities with the help created by numbers, we can assume that all the other capacities are also developed under the condition of living in a society.

In other words, if the satisfaction of fundamental needs generates more complex desires, then we can conclude that any modern skill is created by contacting other people. Based on this approach, all the finest elements such as entertainment, academic achievements, and scientific discoveries are done through interaction. Evolution itself is conditioned by this, as was the case in the past.

For the above statement to be validated we will appeal to the domain of psychology:

Firstly, the subconscious brain represents a psychic formation which contains the hidden tendencies and the emotional conflicts generated by the unknown elements of a personality (Zlate 243, 1996). Therefore, our external influence determines how our inner self is developed or transformed.

Secondly, when communicating with another person the exchange operations are not done only between the normal senses, but also between the rational and irrational brains of the two communicators (Goleman 230-275, 2018). In this way, interacting with our own species conveys more information and has a bigger data flow.

Thirdly, based on the *Theory of learning*, social patterns play an important part in the development of a person, thus we learn how to think and act by imitating others (Golu 34, 2015).

In short, the subconscious absorbs data from outside, creating conditional reflexes both in action and behavior, human interaction has a greater amount of information received and listening, watching or copying others brings us to the status of human beings.

Continuous isolation can interrupt this flow and start a series of changes when it comes to social coexistence. Working from home involves virtual interaction, thus the sense of trust cannot be completely formed between co-workers, since the data exchange is not correctly made and emotions alongside bonds are absent. The current pandemic also prohibited visiting family members or friends for a long period of time, thus everyday a worker was limited to only online interactions.

Possible consequences of this routine can be represented by the development of anxiety, depression, alcoholism and even the desire to consume illegal substances. The isolation imposed by either the employer or the government requires a careful consideration of the individual's mental health and how it might be affected by these measures.

Proposal for a post-pandemic approach

In a democratic state, the institutions are created in order to protect the fundamental social values. As these were defended when the SARS-CoV-2 entered our lives, now the same objective is present, with a focused approach on recovery.

The companies could create special programs for their employees in order to enhance the proper social context for teamwork development. Constructive games have a positive effect when the evolution of emotional intelligence is desired.

State institutions specialized on social assistance are able to step in and organize seminars or group related therapies with the purpose of helping those having problems when it comes to reintegration in a social context.

Psychologists should elaborate self-improvement materials and make them available to the public. These documents would require having in their context clear and simple explanations on how social and emotional intelligence works and why it is necessary to improve it.

Conclusions

Based on the information presented in the current paperwork, we can draw the following conclusions:

SARS-CoV-2 took the world by surprise at the beginning of 2020, forever changing our way of life and thinking, forcing us to modify our daily routines in order to protect our health.

The virus spread at an increased rate mainly because of our interconnected modern times.

Little to no data was available when it came to fighting off this threat, masks, isolation and social distancing being the only viable solutions.

The disease created problems in various domains: political, economic and social.

Many companies had to implement layoffs in order to not go bankrupt, thus the unemployment rate increased.

Due to the evolution in technology a part of the workforce was saved by the option of working from home. This measure saved time for the ordinary employee and provided more safety against SARS-CoV-2.

In Romania, the presence of Law no 81/2018 permitted a quick transition of the work from the office to one's home.

Isolation resulted from the work from home and social distancing measure was able to cause many types of dysfunctions when it came to interaction and coexistence.

For the recovery to be successfully completed, the institutions, employers and psychologists must work together and assist the population in regaining their confidence when it comes to living in a community.

References

- Deaconu, Ș. 2011. *Constitutional Law*. Bucharest: C.H. Beck Publishing House.
- Dobrescu, M.E. 2020. *COVID-19 for everyone to understand*. Bucharest: INTEGRAL Publishing House.
- Goleman, D. 2018. *Emotional intelligence*. Bucharest: Curtea Veche Publishing House.
- Golu, F. 2015. *Manual for development psychology*. Bucharest: Polirom Publishing House.
- Law no. 429 on the revision of the Romanian Constitution, published in the Official Gazette of Romania no. 669 on the 22nd of September 2003.
- Law no. 81 regarding the activity of teleworking, published in the Official Gazette of Romania no. 296 on the 2nd of April 2018.
- Mackenzie, D. 2020. *COVID-19. The pandemic which should not have existed and how the next one could be stopped*. Bucharest: RAO Publishing House.
- Popa, N. 2008. *General Theory of Law, 3rd Edition*. Bucharest: C.H. Beck Publishing House.
- Ștefănescu, T. 2000. *Labor law*. Bucharest: Luminalex Publishing House.
- Toffler, A. 1973. *The shock of the future*. Bucharest: Politic Publishing House.
- Zlate, M. 1996. *Introduction in psychology*. Bucharest: Șansa SRL Publishing House.

An Exciting Journey of Teaching and Learning; Professional Development of Early Years Teachers

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ABSTRACT: This paper summarizes findings from a report, written by the authors, titled the Professional Development of Early Childhood Education (ECE) in Balochistan. The data shows a change in knowledge, skills, and attitude of 300 early childhood educators' on inducting a play-based teaching and learning approach in their classrooms. The sample consisted of urban and rural educators working with children aged 4 to 7 years in public sector schools, in the province of Balochistan, Pakistan. A mixed-methods research approach was employed. A quantitative pre-test was conducted to assess the knowledge, skills, and attitude towards a play-based approach in the early years prior to a 40-hour training. The training used a "Theory to Practice Approach" and made the educators play and practice activities that children would do and then reflect on how they felt and what they learned. This method was believed to be effective as the educators were able to experience what they learned theoretically. After the training, a quantitative post-test was conducted to evaluate the impact of the training. Reflective accounts and group interviews were also conducted to get a sense of how the educators would take their knowledge to the classrooms. The post-test results were very encouraging showing a positive change in all areas. The interviews reflected the enthusiasm of educators to take their new learning to the classrooms.

KEYWORDS: education, professional development, early childhood education, developing country, pedagogy, play-based learning, theory to practice

Introduction

Pakistan faces a serious challenge to ensure all children stay and learn in school. Currently, Pakistan has the world's second-highest number of out-of-school children (OOSC) with an estimated 22.8 million children aged 5-16 not attending school, representing 44% of the population (Pakistan Education Statistics, 2016-17). In the 5-9 age bracket, 5 million children are not registered in schools, and after primary-school age, the amount of OOSC doubles, with 11.4 million adolescents between the ages of 10-14 (Pakistan Education Statistics, 2016-17) not getting formal education. In the province of Balochistan, there is a 72% drop-out rate from pre-primary to primary (Pakistan District Education Rankings, 2016) due to various reasons such as inhospitable school environments, corporal punishments, a lack of understanding of the benefits of school education, and a lack of professional development of Early Years Education (ECE) teachers to inspire parents and students to continue learning.

In order to accelerate progress and ensure the equitable expansion of quality education in line with UN's Sustainable Development Goals (SDG), UNICEF supports the Government of Balochistan's effort to significantly reduce the drop-out rate from pre-primary to primary levels by focusing on ECE to improve school readiness. One of the ways to improve school readiness and have encouraging learning environments is by training teachers. If teachers are professionally developed then they will be able to use innovative teaching strategies to increase the motivation of students to stay in school and become curious learners.

In hopes to professionally develop ECE teachers in Balochistan, Teaching Table, a company focusing on teacher training and teacher resource development, with technical support from UNICEF and financial support from EU collaborated with the School Education Department (SED), Government of Balochistan, (GoP), to train 300 teachers of Katchi, Pakki,

and Doim (Kindergarten, Grade 1, and Grade 2) classrooms across the 11 districts. The focal districts are Gwadar, Lasbela, Nasirabad, Jafferabad, Zhob, Sherani, Quetta, Bolan, Pishin, Killa Saifullah, and Killa Abdullah.

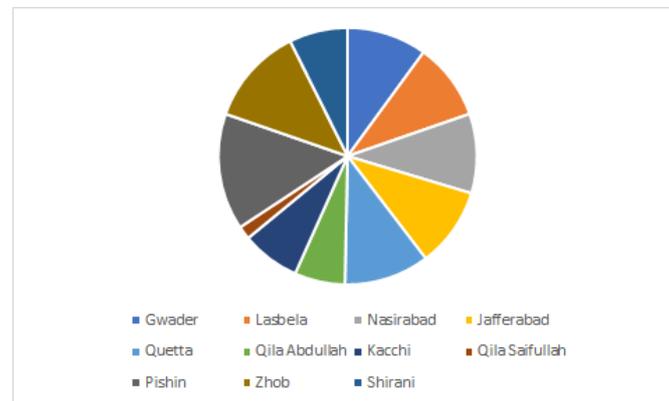


Figure 1. Teachers from 11 districts of Balochistan

Teaching Table conducted a six-day training for each district, covering play-based learning, class organization, time management, effective delivery techniques, child development, independence in thought, and innovation. The training was premised on three themes namely, child development and learning, play, and professional development. Using the three themes, the trainers provided each school with material to ensure they continue practicing the skills learned in the training. Based on these themes the teachers were trained to take the theoretical training into their classroom.

A Resource Kit was also developed for each school which included:

- USBs that were given to teachers. The USB's contained a large number of resources that teachers could use for their own development (phonic sounds and ideas for low cost no cost materials) as well as use to teach children (songs and stories English and Urdu)
- A Training Manual which was distributed which covered all the topics in the training.
- A cloth bag with logos of UNICEF, EU, SED GoB, and Teaching Table containing the training manual and a badge.
- A badge
- A six-day training schedule was provided.

A hands-on, experiential and collaborative approach ensured that teachers were actively involved in the process of applying theory to practice. In order to track the teacher's learnings, the trainers used a quantitative and a qualitative tool for measurement. This allowed them to engage with the data in a meaningful way, by not only providing an objective analysis of their learnings but gave the trainers insight into how the information was being interpreted by the teachers.

The trainers used two tools to evaluate the knowledge, skills, and attitude of 300 teachers. The trainers provided an evaluative measure that tracked the teacher's learnings. The sections had questions pertaining to socio-emotional development, individualized teaching, play, learning, physical development, brain development, and creative thinking. The latter highlighted the lack of knowledge teachers had regarding vocational training, reflective practices, benefits of storytelling, the meaning and use of a physical environment, and general child development. It was observed that the teachers' responses improved by 52% in the Post-

Test. By having teachers fill out daily reflections, the trainers were also able to oversee the teacher's learnings. Here, it was observed that the teachers learned about concepts they were unaware of. A process of self-actualization had begun where the teachers understood the importance of continuous professional development. Several teachers noted down the need for this training and to have them on a more frequent basis.

Conceptual Framework

Table 1. Training Objective and Outcomes

Learning Objectives	Learning Outcome
Play-based learning	Teachers will be able to implement play-based activities
Class organization	Teachers will be able to make learning corners in their classroom
Imaginative, Creative, and Critical-thinking Skills	Teachers will be able to include art, rhymes, and storytelling to develop critical thinking skills in children
Time Management and Temporal Development	Teachers will be able to develop a yearly, monthly, weekly, and daily schedule
Effective Delivery Techniques	Teachers will be able to write age-appropriate simple lesson plans
Child Development	Teachers will understand the development and well-being of children
Communication and Psycho-Social Development	Teachers will have positive interactions with children, parents, and community members.
Innovation and Independence	Teachers will be able to make low cost no cost material to promote active learning in their classroom
Professional Development	Teachers will be able to reflect on their own practice and improve their teaching skills

Source: Teaching Table

Themes of Development, Learning & Play

The training was focused on developing the teacher's knowledge of **child development**, learning, and the importance of play in the early years. With respect to child development, teachers learned that it is impacted by genetics and the environment. The trainers drew from theorists such as Arnold Gessel (1928) who believed child development was composed of intrinsic and extrinsic factors. Internal factors include genetics, temperament, personality, learning styles, as well as physical and mental growth. At the same time, development is also influenced by external factors such as the environment, family, cultural influences, health, and generally early experiences shaped by peers and adults.

To elaborate on ideas about the **environment**, the training was also inspired by the works of Urie Bronfenbrenner's (1917-2005) Ecological Systems Theory. The interaction between the child, his or her immediate family/community, societal landscape, culture not only fuels but steers his or her development. The three aspects of a learning environment; physical, temporal and psychosocial were explored through various activities. The physical environment entailed setting up the learning corners and using them to play, the temporal environment was explained using the training manual and discussing the yearly and monthly breakdown of the curriculum. The teachers themselves made a pictorial daily schedule for the katchi class. They were to maintain a balance between active and passive, indoor and outdoor, and difficult and simple activities in the day. Adding transitions during the day was a requirement. Psychosocial environment was explored through the enactment of case studies.

The next theme elaborated on how children are born primed to **play** and have an innate drive to explore. Interestingly children do not need to be taught to play or be given a reward. During play, children gain knowledge and develop many skills and competencies. Research has ascertained that play is crucial to the overall development of children, hence an integral part of all recognized early years curriculum across the world. Drawing from the works of Tina Bruce (1947- till now), and Margaret McMillan (1860-1931), the trainers highlighted the significance of play.

According to Tina Bruce (2011), play provides children with sensory experiences, opportunities to create rules, and space where they can share ideas, and celebrate their skills. Further expanding on this notion, the trainers examined the work of Margaret McMillan (1919), who expounded upon the nursery school. According to her, "Children want space at all ages. But from the age of one to seven, space, that is ample space, is almost as much wanted as food and air. To move, to run, to find things out by new movement, to "feel one's life is every limb," that is the life of early childhood" (McMillan 1919, 28). McMillan believed that children learn best through first-hand experiences. By providing opportunities for outdoor play, children can maximize their development.

Based on Bruce and McMillan's theory the trainers developed training that allowed teachers to play in indoor and outdoor environments. The trainers created games and activities that are commonly used by children and made the teachers play them. The hands-on experience of playing gave teachers an insight into how children feel when they play, and the discussion after explored the knowledge skills and competencies children learn from the experience. There was a general consensus on the importance of play. Play creates a joyful environment, which is key to learning.

Data Collection Methodology

Collecting data is a distinct step in the training process that captures the details of the empirical and qualitative world. This training gathered quantitative and qualitative data in order to inform the training process and gauge the teacher's understanding in the form of numbers and words.

Quantitative data are in numerical form, representing a "uniform, standardized, and compact way to empirically represent abstract ideas" (Neuman 2014, 201). The teacher's knowledge regarding child development, learning, and play was sketched out through statistics and bar graphs to enable an objective analysis of their performance prior to and after the training. Qualitative data in this training was in the form of written words, representing various "actions,.. [and] symbols" (Neuman 2014, 204). This helped in assessing the way teachers interacted with the training material and their daily reflections enabled the trainers to generate new ideas and "suggest new ways to measure" (Neuman 2014, 204). In fact, the first training in Gwadar primarily used a qualitative measure. The answers received were vague, subjective in nature, and difficult to interpret. Due to poor Urdu language skills, the trainers discovered that not every teacher could expressively convey their experiences in the Pre-Test and Post-

Test, and so, the training included three sections in the evaluative measure that was purely quantitative.

By using two kinds of measurements, the trainers were able to engage with the data in an intimate and meaningful way, closely connecting them to the teachers that were behind them.

Results

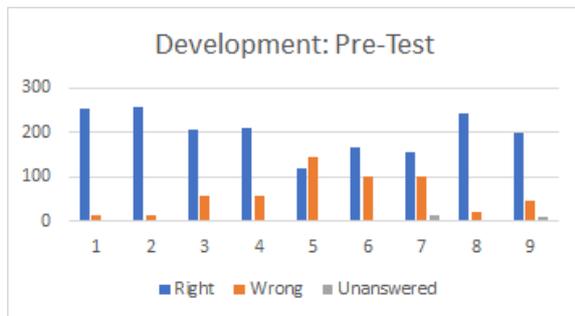


Figure 2. Development Pre-Test

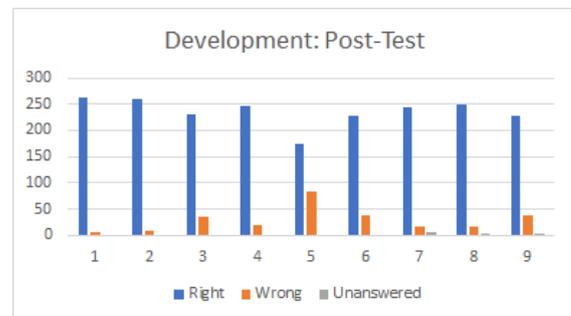


Figure 3. Development Post Test

The section on development was testing the teacher's knowledge base on whether they knew about the various stages of development, how early the brain develops and why it is important to develop it during early childhood. The results indicated that 48% of the teachers were unaware of the process of growth and development in children while 34% were unaware of how a child's brain can develop in the early years. After the training, 58% and 82% of the teachers were now aware of the process of growth and development. The teachers were well aware about the important stakeholders in the development of children and about the importance of developing the brain during early childhood.

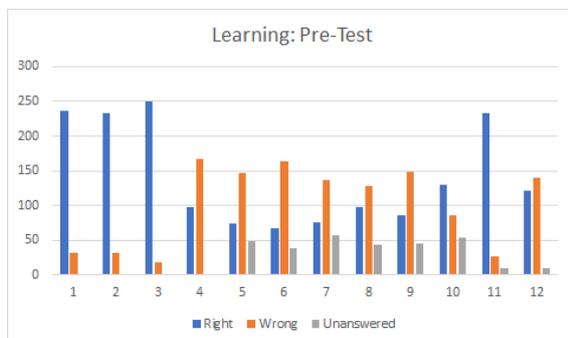


Figure 4. Learning Pre-Test

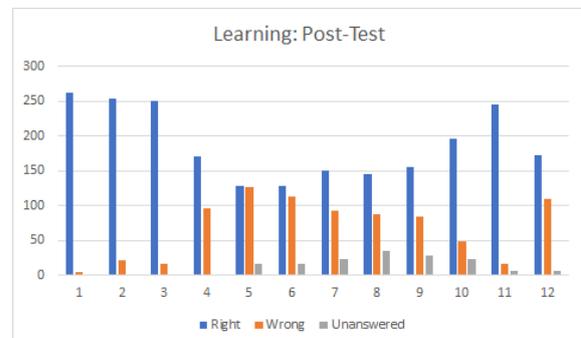


Figure 5. Learning Post Test

The next section tested the teacher's knowledge of a child's learning process. Each child is learning at their own pace and in order to make lessons effective, individual strengths need to be accounted for. By nurturing the holistic development of the child, either through reworking the physical spaces of the classroom by creating learning centers, creating story time, and discussing the essential skills that need to be developed in early childhood, we learned that a majority of the teachers were either unable to answer the question correctly or left them empty. In the post-test, a majority of the teachers answered correctly, proving that through the professional development of teachers, a huge impact can be created on teaching practices.

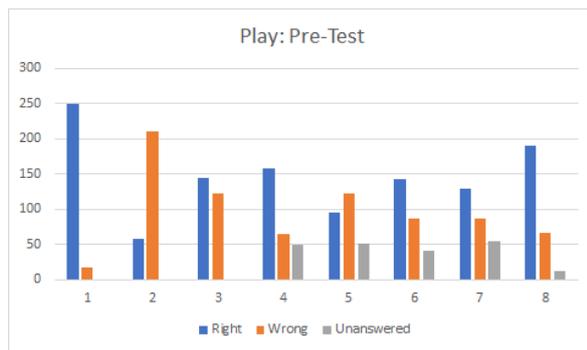


Figure 6. Play Pre-Test

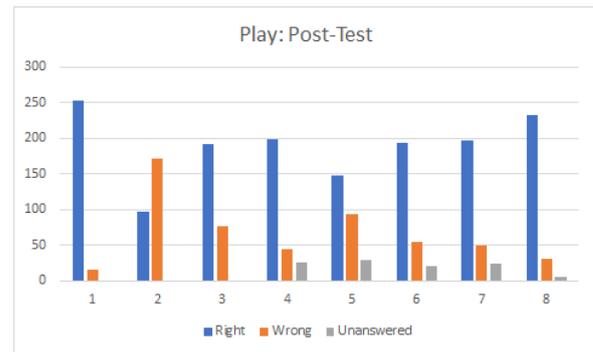


Figure 7. Play Post Test

The last section was attempting to understand the teacher's knowledge about play-based learning and whether they included it in their classrooms. A rise was observed in the teacher's knowledge about play as a natural process that allows students to develop holistically, excel academically, and gain transferable skills such as communication, cooperation, and courtesy in actions and speech.

Discussion

In six days, teachers were given knowledge about child development, creating a conducive learning environment and converting their classrooms into play-based ones. The data showed improvements in mostly all areas as it worked under the ambit of practice. Edgar Dale's Cone of experience (1960) reveals that 90% of retention is attainable when learners use perceptual learning styles which are sensory based. This is why the trainers designed activities simulating real-life experiences and helping teachers translate from theory to practice.

This was reflected not only by the quantitative data, but also the anecdotes collected from the qualitative data. Subhana, a teacher, writes about the importance of working in groups as children can learn from one another and it lends towards their overall development,

گروپ کے ذریعے کس طرح بچوں کی ذہنی، جسمانی اور حرکی نشوونما کو اجاگر کیا جاتا ہے یہ سیکھا
We can enable social, emotional, and cognitive development through group work

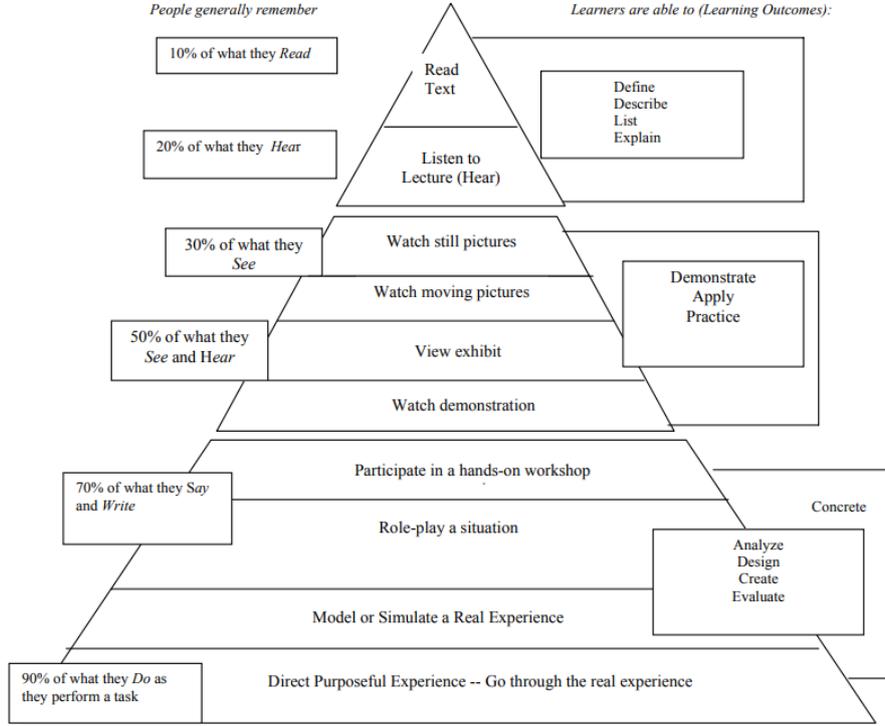
Teachers such as Maryam, Yasmeen Kauser, and Talat Ali learned how to create different learning corners, lesson plans, and individualized timetables that suited their own needs and their students. Shazia Sitar mentions how she learned about brain development while Rifat Jabeen writes about how she learned how to make toys for her students.

The idea of play also became important where teachers mentioned its need to build the cognitive abilities of a child. Arifa Arif writes,

کھیل کھیل میں بچوں کی ذہنی نشوونما کو اجاگر کرنا
A child experiences cognitive development through play.

While Sanam Begum mentions the use of play in enabling social and emotional learning in a child. She writes,

گیم کے ذریعے سماجی، جذباتی کے بارے میں سیکھنا
We can develop socially and emotionally through play.



Source: Taken from Anderson, H.M. Dale's Cone of Experience. Kentucky: University of Kentucky

However, it was observed that teachers held weak language skills in English and Urdu, as their mother tongue is Balochi. Anam Ahmed wrote the entire reflection in English. She writes, "Learn about pedagogy which is much needed for teachers in Pakistan and particularly in Balochistan." She mentions that due to the "lack of pedagogical understanding" the learning process of children is hindered. Therefore, such a training must be conducted more frequently in order to "deliver the knowledge effectively in the classroom." This indicates how teachers hold poor language skills and may require language-oriented training in order to effectively teach.

This was also true for Urdu. Yasmeen's comment further suggested that teacher's required training in Urdu. She writes,

اس ٹریننگ میں ہمیں مارننگ میٹنگ کے بارے میں بتایا گیا۔۔۔ اس سے پہلے مجھے اس بارے میں کوئی علم نہیں تھا

Today I learnt about something I didn't know. We learnt about morning meetings.

Conclusion

The training on the professional development of 300 teachers in Balochistan was short but effective as highlighted by Edgar Dale's Cone of experience. By employing a "theory to practice" approach we were able to develop the knowledge and skills of teachers in early childhood development, learning environments and play-based theories and techniques. Teachers were familiarized with theories and made to practice activities in order to learn and understand how to deliver lessons by being cognizant of the themes of the training.

The reflections of teachers substantiated what was found in the quantitative data, and the training kit and manual ensures sustainability in practices. On the basis of the findings of the training, the following recommendations are suggested on how to improve early years education in Pakistan

Give Curriculum-based Training

- Teachers should be taught how to teach the government endorsed curriculum. They need to understand pedagogy, and have content knowledge in order to teach the material.
- Training can be in 4 cycles spread out over a year. Each training will be related to core subjects (English, Math, Urdu and General Knowledge) for 7 days each.
- Teachers should be provided with follow-up support to ensure that they are comfortable with the material they are teaching and are able to deliver lessons effectively.
- Teachers from Balochistan are comfortable with their home language. It was observed that their English and Urdu language skills are weak. It is necessary to give teachers language-based training.

Involve the Stakeholders

- The school administration should also be included in the training. They need to be informed about the recommended methodologies. This will ensure that the training material is being effectively implemented.
- This will also allow administrators to observe teachers and give feedback on how to improve.
- The training will also emphasize the need to keep teachers who received ECE training to remain teaching the primary classes for at least 2 years. This will provide the teachers a chance to effectively deliver lessons while gaining a firm grounding as an ECE teacher.

Conduct Follow-Up Training

- There should be another training after 3 months to follow up on their learnings, refresh their knowledge and evaluate what worked.
- This will provide a chance to develop solution-oriented approaches and create culturally relevant material.
- Just as students are observed and assessed, a follow-up training will provide the chance to give feedback to teachers in a positive light. Not only will they view the importance of constant professional development, but teachers will also learn how to give and take feedback.

References

- Anderson, Heidi Milia. n.d. *Dale's Cone of Experience*. Kingston: Queens University. Available at: Microsoft Word - Step Dales Cone.doc (queensu.ca).
- Bruce, Tina. 2011. *Learning Through Play: For Babies, Toddlers and Young Children (Paperback)*. London: Hodder Education.
- Bronfenbrenner, Urie. 1981. *The Ecology of Human Development*. Boston: Harvard University Press.
- McMillan, Margaret 1919. 1919. *The nursery school*. London: J.M Dent & Sons Ltd.
- Dale, Edgar. 1968. *Audio-Visual Methods in Teaching, 3rd ed.* New York: Holt, Rinehart & Winston.
- Pakistan District Education Rankings 2016. 2016. Islamabad: Alif Ailaan and SDPI. Available at Pakistan_District_Education_Rankings_2016_Full_Report.pdf (d3n8a8pro7vhmx.cloudfront.net)

- Pakistan Education Statistics 2016. 2018. Islamabad: National Education Management System. Available at [Pakistan Education Statistics 2016-17.pdf \(aepam.edu.pk\)](#).
- Khan, Noshin. Khan, Umrat. 2020. *Professional Development of ECE Teachers in Balochistan*. Karachi: Teaching Table.
- Neuman, W. L. 2014. *Social Research Methods: Qualitative and Quantitative Approaches*. Boston: Pearson Education Limited.
- Yale Child Study Center. n.d. *Gesell Theory: Gesell Program in Early Childhood*. Available at: [Gesell Theory – Gesell Program in Early Childhood \(gesell-yale.org\)](#).

Forensic Expertise in the Case of Road Traffic Accidents

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ABSTRACT: In a growing world of population, the world economy and air pollution, urban and rural agglomeration by motor vehicles is caused by the factors stated. Numerous road safety studies have been carried out worldwide, showing that the only means of transport with the lowest mortality rate remain airplanes, ships and trains. Even if the issue of aggressive pollution by driver overcrowding has been asked at the level of international institutions, we cannot talk about a restriction of the human right to enjoy his personal property. This overpopulation has led to the decimation of regulations, conduct and laws governing urban and rural traffic by encouraging citizens to use vehicles with CO₂ emissions as low as possible or even electric, bicycles, mopeds, and electric scooters, etc. However, the environment is not the only problem facing large cities, but rather another major problem being the lack of road infrastructure, but exactly the original streets and boulevards are no longer coping with car surpluses. This aspect has forced, in economically developed cities, acceleration of inventions in the field by: bridges, suspended variants or underground passages, motorways and unique boulevards (for example 6 strips per one). Even if there were numerous efforts to reduce the number of cars, it continues to grow daily, the factors being multiple, and traffic accidents in traffic are exceeded. Are we asking why there are still road accidents, given that we are in the century of speed, state-of-the-art technology? Well, if the computers themselves produce system errors, then we understand that the human being is the only computer that produces errors that are impossible to prevent. Although there are numerous appearances in the showrooms of large motor vehicles that promise their endowment with advanced artificial intelligence, the social status of each country in the world differs, which makes it impossible to acquire all drivers. So, road accidents cannot be eliminated, they will only be in a continuous prevention, in order to reduce their number and at the same time increasing the safety of pedestrians and drivers. That is why in this paper I will talk about how forensic expertise is achieved in the case of road accidents.

KEYWORDS: accident, infrastructure, forensics, expertise, technology, safety

Some forensic expertise in case of road traffic accidents

The traffic accident was defined in the specialized literature (Suciu 1972, 640) as an event produced on public roads, consisting in the collision of two or more vehicles, or of a vehicle with an obstacle, hitting or stepping on pedestrians, etc. resulting in injury to bodily integrity or death of a person, property damage, and traffic jams. As favoring factors of road traffic accidents can be listed: environment (urban or rural), season, day of the week, weather conditions (Buzatu 2013, 157-158).

To begin with, we do not have to confuse on the topic addressed, namely a forensic expertise in road traffic accidents does not only include cars but on the contrary are analyzed among various accidents such as: pedestrian accidents, property destruction, vandalization in the public space of the car, cyclists (and in general the population finding an alternative to agglomerated traffic by traveling with mopeds, skates, etc.), to the abduction of people on the street with the car, at the collision of trams, trains or even a the plane, helicopter with a mass of people and cars (for example, the pilot of an airplane may lose control and land for a motorway, and following this maneuver, it produces an unpleasant event). So, in the field of forensic expertise on road traffic accidents, there are two main branches from which forensic expertise and technical expertise. The two branches were and are applied along the time of

many forensic experts in a meal. From the point of view of law experts, this activity carried out in generations in generations leads to numerous judicial errors and the creation of superficial files that are taken to the judge (Jacetta 2020, 1-4).

To better understanding the two branches, I will look at this aspect, as follows (*Idem*):

- forensic expertise - according to the definition, this activity represents the identification and analysis of traces left by beings, objects, substances found on the spot, of natural or man-made phenomena and disasters (law-dictionary).

We are therefore in the situation of a forensic expert study in the case of a road traffic accident, which is examined in a traditional way by the judicial research body on the resemblance of the damage caused by the car that left the accident site. For example, many investigators consider forensic expertise as the action that makes the distinction between the objects and traces left by the fugitive such as the paint on its car, printed on the harm, or that is not the essence of a forensic expertise. Such an expertise would mean the technical analysis of the created situation, such as the speed with which the car is moving, a rather important aspect in the case file.

Thus, this activity consists in a detailed analysis of the car in question, the traces left by it from the sudden braking action, from small pieces of material left on the road, etc. And all of this is achieved with simulators that determine how the deed was committed. For example, checking a car, leaving traces of tires, is based on the analysis of the judicial photos. Another important aspect is the importance of examining the collision between two or more motor vehicles, towards the correct choice of equipment to be expertise and, in particular, for the determination of the road accident (Jacetta 2020, 1-4).

Thus, the basis for this information will be the creation of the forensic survey by the road traffic system expertise method, crossing the following steps (*Idem*):

- establishment of the state of affairs;
- the route reconstruction of the accident;
- analysis of remaining deformations;
- determining the location where the collision has occurred;
- establishing the relative position between motor vehicles or between the vehicle and the victim (if involved and pedestrians);
- establishment of travel speeds;

In this paper, we will find some of the steps set out above for a more extensive analysis of forensic expertise in the case of road traffic accidents.

Analysis of residual deformations

For this chapter we will treat as it remains according to the fatal impact between two or more vehicles but also in the case of pedestrian impact. Considerately, the fact that road accidents cause material damage that are sometimes minor, sometimes major and statistically speaking most often cause serious medical problems involved (for example, following an accident, some pedestrians end up in a wheelchair, undergo complicated operations in the area of the column, the upper and lower limbs; with mental trauma, etc.) (Ward Smith 1957, 93).

In section, we will analyze paint fragments and traces, metal parts from the car body, physical samples (fibers, hairs, blood, etc.), examination of the samples taken from the site of the car engine, and the list can continue (*Idem*).

Analysis of paint fragmentation and traces left by it

When an accident occurs, even if a pedestrian is also involved, a scratch or deformation, local, car body is created, resulting in small parts of paint that breaks and fall, becoming physical samples, in the case of which is suddening from the scene of the accident, which can

be collected by the forensic experts. For example, we have a road accident involving a motor vehicle and a cyclist, as a result of the impact, the right horn of the bicycle handlebar will scratch the surface of the car body, locally, which will cause the particles and small parts of paint to fall on the asphalt. If the driver of the car escapes from the accident site, these paint fragments will be taken and analyzed in the specialist laboratory, thus determining the model and type of self-test in question. This analysis is performed under microscope under bright lighting conditions (Ward Smith 1957, 95).

The following aspects will be determined by expertise: If the machine paint has been applied correctly, if originally not modified, the type of scratches on its surface (there may be deep or superficial scratches) and last but not least it can be determined whenever the car paint has been applied and how viscous it was. However, it can not be talked about a finality of the expertise, as this paint is carried out following chemical compounds, and chemical examination is required in determining paint layers. The spectrography and diffraction method will therefore include the chemical compounds which have contributed to the formation of the substance, color, its resistance to natural phenomena, etc. This examination finally leads to the long-awaited result, whether it belongs to the car or not, the color and the paint parts on the bodywork or the clothes of the damage (Idem).

Metal parts from the car body

In the case of metal parts found on the spot, we can well say that there are some disadvantages in terms of analysis and determination of their provenance, because these parts can be found so small on the road as to make it impossible to join them and lead to an entire part which is presumed to be missing from the bodywork of the vehicle in question. Of course, not in all cases there are such problems faced by forensic experts, in most cases these pieces can be compatible with the missing part and thus determine if it comes from the car that caused the accident, this analysis is carried out using the spectrography method (Ward Smith 1957, 936).

Compared to the previous examination, in which we specified the way of analyzing the paint, in the case of metal parts, they have to be smaller than the paint parts, so that they can be checked in more detail under the microscope. For the analysis of metal pieces on the fabric, they shall be easily removed by means of a brush. However, in this case more attention must be paid to the handling of the text, because, because of the fabric, these fragments can be lost through the material and the work devolish. The most commonly known metallic materials which are both easy to identify and take are those materials derived from machine wear such as the age of the car by metal corrosion or if the vehicle has been involved in other road accidents in the past and has undergone changes (Idem).

Physical samples taken from the spot

- **Textile fibers.** In this subpoint we are talking about road accidents involving pedestrians. Thus, in this case, analyzing more detail, we notice that at the time of impact, small particles in the victim's clothing will be attached to the vehicle that touched it. For example, if the pedestrian is on the passing of pedestrians and inadvertently the driver of the car hits it at the time of impact there is the possibility that pieces of material remain on the car body. Of course, it is not just about clothing and accessories, let's say the glasses that fall and are not shed by the car's wheel, which is why small pieces of lenses will prick in tires; the purse of a lady who, as a result of the impact, because of the paper skyscracks the car body, say that because the majority of the purses have as chain or grave sheet accessories, which are made of metallic material and have a golden or silver color; and so on. This examination is carried out under the microscope and the type of textile fiber will be determined, the source of origin, the substances which were the basis of textile color

formation, etc. Whether we are talking about technical, chemical, biological data of textile material, these analyzes lead to the end of the same results as in the case of examination of paint or metal parts (Ward Smith 1957, 97).

- **The hairs.** As regards the examination of yarns, they may be framed together with the examination of fibers of material taken from the site. These examinations will determine the origin of the hair, i.e., if it comes from an animal or a human being and the treatment to which it was subjected, when removed from the root, cut, mechanically burned (i.e., due to friction) and the way in which he was previously treated by the victim, whether he was painted, trimmed, washed or not, whether he had split hairs, if there were traces of broth, and the list can continue. An interesting case to specify is the rare case faced by forensic experts, where the hairs analyzed come from someone other than the injured one (Ward Smith 1957, 97).

- **Biological sample – blood.** In addition to the physical, chemical and physico-chemical samples, there is also biological sampling from the scene, so we are talking here about blood and saliva caused by the victim as a result of the impact. I will look at this in general without going into the detail of the nature of the human biology. Biological samples arrive on the car body or on the road or in both combined situations, depending on where and how the impact is carried. For example, if the victim is hit in the chest, because the victim is left without air, he splits the saliva on the car body because involuntarily opens the mouth removing the air accumulated in the lungs as a result of the normal inspiratory-exhalation process. As a result of saliva analysis, it can be included in important biological substances such as blood leading to the identification of the victim. The porbits collected from the car body will be carefully analyzed in the laboratory and can even determine the blood group the victim has (Ward Smith 1957, 97; also see Buzatu 2009, 16-19).

Examination of the on-site samples taken from the engine of the car

Briefly, I will specify how many technical details of sampling the engine of the car, which may lead to the conclusion of the investigation in question, if two or more motor vehicles or a pedestrian vehicle were involved. Therefore, the impact between two cars will be considered to examine the surface of the two vehicles, the engine, in order to find evidence leading to the investigation (hairs, textile fibers, biological traces, etc.). If the investigation is carried out without evidence, it is up to the authorities to identify it. When the offense and the car concerned have been identified, careful consideration shall be given to whether the vehicle has undergone changes from the date of the accident to the date of its identification. If there was clear evidence itself showing that the machine has undergone changes within that time period, it will verify how the modifications made to it are made, and toward the end it remains within the powers of the research organ, to determine the circumstances which led to the deed committed by the defendant (Ward Smith 1957, 99).

Conclusions

The causes of road traffic accidents must not always be related to human error, but also to the mechanical and software errors of the car. We cannot always blame the driver for the accident, because there are many cases where accidents have occurred as a result of a mechanical fault caused when the vehicle is driven. The car has always been a means of public danger, being practically a legal weapon against man, a gun that can be controlled, legally supported and that kills tens, hundreds, thousands of people every day around the world, never banned, confiscated, etc. following statistics from 2012, it has been shown that since the car was manufactured it was the promoter of accidents that occurred day by day. This mechanical failure I speak of relates to the loss of control of the moving car, here we remind you of the vehicle's safety system (brake pads and discs, clutch, incorrect wheel

geometry, damage to the wheel axle, damage to suspension, parking brake, etc.) Another cause of road accidents could come from the tire, due to excessive filling of air causing rubber breakage and car derailment or due to weather conditions, a study showing that these causes are likely to happen at 0,2%. Therefore, in such cases, an examination of the circumstances which led to the accident will be necessary to determine whether the mechanical damage suffered by the car contributed to the unpleasant event (Duboka, 2/10).

Finally, I believe that road safety and behavior can lead to less road accidents and thus only be left with accidents caused by other sources such as the one from the driver. In fact, the major car manufacturers have come to the public with the smarter cars that are designed to ensure safe traffic, but there is still a dilemma as to whether these company solutions are a major percentage of benefit to the society in which we live.

References

- Buzatu, Nicoleta-Elena. 2009. "Investigation of road traffic accidents. Criminalistics aspects and forensic medicine". In *Magazine of students and masters students of the Faculty of Juridical and Administrative Sciences*. Bucharest: Pro Universitaria Publishing House.
- Buzatu, Nicoleta-Elena. 2013. *Forensics*. Bucharest: Pro Universitaria Publishing House.
- Duboka, Cedomir V. "Forensic evidence in road accidents caused by mechanical damage to the vehicle" In *26th JUMV Automotive International Conference: Belgrade, Serbia* volume: JUM-SP-1701 CD-ROM Conference Properties "Automotive Engineering for improved Safety", Vol. 26, No. 1, Paper NMV17SAF13, published in April 2017.
- Jacetta, Simona. 2020. "Forensic expertise and technical expertise in road traffic accidents - present and future." *Academia.edu*.
- Suciu, Camil. 1972. *Forensics*. Bucharest: Didactic and Pedagogical Publishing House.
- Ward Smith, H. 1957. "Physical evidence in the investigation of road accidents." *Criminal Law Journal and Criminology*, volume 48, Northwest University.

Artificial Intelligence and Food Industry

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ABSTRACT: The potential role of Artificial Intelligence is becoming increasingly clear. To keep up with this enormous growth, manufacturers are looking for revolutionary manufacturing techniques, and one such example is the Emergence of AI. The usability of AI provides some form of interactivity between the system users and the system itself, hence enhancing usability. One of the basic human rights is the right to decide. Until now, I have made do with my own brains. If a human solution is forced on me, I can argue, but in the case of “absolute” artificial intelligence, I will be forced to accept. Do I need this? In my research article, I tried to focus on the pros and cons of the adoption of AI in the food industry. With the help of SWOT analysis there are beneficial suggestions about how the industry can check whether it is good for their unique industry requirement needs and how much is the reliability of AI implementation in the food industry. The objective of this research is to find out how AI is doing for the betterment of the food industry and is it good to implement/adopt.

KEYWORDS: AI, Food Industry, SWOT Analysis

Introduction

I use various household products, RTV, household appliances, which are produced and assembled from subassemblies in the process of automated line production, in which robots play a significant role. In some physically existing stores and shopping centers, you can find autonomous robots acting as information kiosks and /or customer advisor. In city parks you can find robots controlling people’s behavior in terms of applying anti-pandemic safety recommendations and instruments. More than 75% of millennials in the US and the UK would want to use AI technology to obtain better assistance in planning and cooking healthy meals. World population is projected to escalate to about 9 billion by 2050? To feed this vast number of people, the agriculture sector would need to increase its productivity by about 70 %. To successfully achieve this, technology will need to be a core unit in the food industry. Artificial Intelligence has a vital role to play in future food production. Food and beverage companies are moving fast using technology for operations and logistic efficiencies and onto how to meet consumer desires. The prominent players in the industry have embraced Artificial Intelligence to maintain strong empathy with their audience (Damlapinar 2019).

Role/significance of AI in the Food Industry

Implementation of AI programs allows for the automatization of manual tasks which offer more time to think about strategic tasks and improve employee efficiency. Consumer friction at the point of sale is also improved by the implementation of AI in the food industry.

Speeding up manual tasks

Implementation of AI programs allows to automat manual tasks so that no longer must do them on your own so there would be more time to think about strategic tasks and that improve employee efficiency. Consumer friction at the point-of -sale also improved by the implementation of AI in food industry.

Improving worker-overtime ratio

AI implementation for all day-to-day work to improve workers -overtime ratio.

Running procedures and observance issues

There are lots of procedure regulations that food and beverage companies must abide by and one can set some rules in the AI system for finding as well as eliminating inefficiencies by analyzing data and finding ways to improve.

Sorting of Food

Companies in the food industries take advantage of AI to develop machines that significantly improve the sorting of food. These technology systems are sensor-based and use features such as cameras and sensors to visualize food products with human perception. This AI technology segregated the quality of food with computer vision.

Implementation of Personal Hygiene Habits by Employees

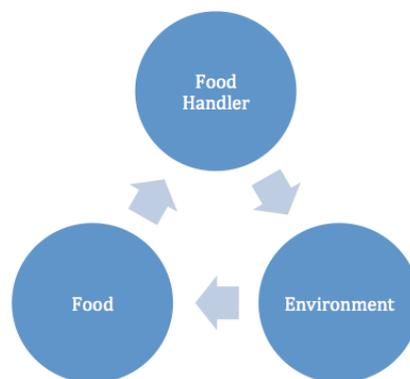


Figure 1. Food handler connection with food and environment

In figure 1 we can see how food handlers are connected with food and environment. AI helps to enable companies to quickly detect any inefficiencies in this aspect and eliminate them to improved food safety. CCTV Cameras with special facial recognition monitor the activities of food workers if they follow or not proper hygiene while making, delivering, and preparing food.

Reduction in Maintenance and repair costs

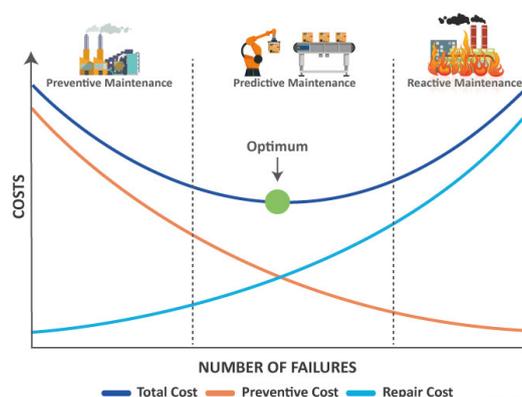


Figure 2. Maintenance and repair costs

AI can help to facilitate predictive maintenance from preventive maintenance which reduces cost.

Self-cleaning and optimization Techniques

The Self-optimizing-clear-place (SOCIP) technique of AI can improve cleaning time and drastically reduce resources used for cleaning including water. SOCIP uses features like ultrasonic sensing and taking optical fluorescence images to detect the tiniest amount of food leftover and microbial debris present in the equipment. This enhances the optimization of the cleaning maintenance process.

AI is useful to optimize supply chain management

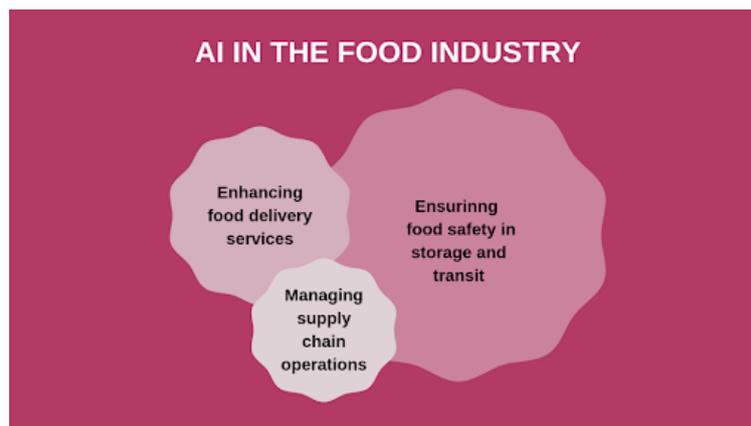


Figure 3. AI in the food industry

The FSMA (Food Safety Modernization Act) has made sanitary requirements stricter, considering the entire supply chain. The reason is that now cereals, spices, and other foods that don't require refrigerators are in danger of contamination. Previously such foods were not prone to contamination, but now that is changed (Olena 2020).

AI helps to minimize delays and maximize profit margins by providing close monitoring of every supply chain operations. Also helps companies to forecast for better management of pricing and stock products accurately. AI also used in the case of transparency issues to track products from the farm to consumers. Suppliers and retailers are now increasingly turning to technology to reduce waste and improve inventory management. When it comes to improving the visibility and management of the food supply chain, AI proves to be the best solution as it optimizes the reduction of waste and improves the freshness of the product (Sharma 2019).

Revolutionizing the whole in-store shopping experience with new products

Based on the available demographic data and statistical available, many food companies have been able to provide location-specific varieties of food flavor combinations that are targeted and preferred consumer groups (Research and Markets 2021).

AI to analyze consumer data

Monitoring conversations on social media and using unique algorithms, food industries can use AI to analyze consumer data and identify sentiments behavior that are crucial not only to know positive or negative experiences but also in the development and design of new products. This is proven as an immense contribution to the food industry because companies can now offer unlimited forms of flavor combinations, spices, and ingredients.

Personalized customer services

All these predictive analysis tools like chat boxes or voice assistant powered by natural language processing and tap consumer shopping data history of personalized consumer service experience provided by AI helps the food industry to monitor consumer preferences and what they always re-order. So, with the help of this AI featured tool food industry can feed personalized items in the consumers' food options.

Introducing new recipe

Thanks to AI technologies such as image recognition and machine learning, people can now save time, food and money in the kitchen while discovering creative and tasty recipes and even generating their own new and personalized flavors.

Food selling sites

Automated customer service and customer segmentation can significantly increase the accuracy and efficiency of administrative functions such as creating reports, placing orders, dispatching crews, and formulating new tasks (Olena 2020).

AI in better farming conditions-

Nowadays companies in the food business are analyzing how they can use AI to suit the future growing techniques of farming. Modern Applications of artificial intelligence in the food industry sector achieving significant reduction in downtime, reducing consumer friction at the point of sale, speed up manual tasks, and improving workers-overtime ratio to name a few.

Optimal food delivery mechanism

Lots of companies are using AI-based food delivery mechanisms which channelize the processes from food ordering to food delivery. The most successful food delivery services are -Uber Eats, Grub Hub, and Door Dash. Robotics are used in food processing, manufacturing and now robots are delivering food to doorsteps also. All these are possible with help of AI techniques. These are the major companies operating in AI in Food & Beverages Market.

- TOMRA Sorting Solutions AS
- Rockwell Automation Inc.
- ABB Ltd
- Honeywell International Inc.
- Key Technology I
-

Challenges of AI and available solutions

Everything has its pros and cons, so does AI. This amazing technology has the following cons.

- Companies must make sure that their employees should be skilled enough to keep this AI system always updated to avoid any future troubles.
- Various companies that lack such resources should find food and beverages solutions providers that have already established AI systems which will improve the front-end and back-end processes in the company.
- SAP and Bundled Solutions are some of these providers which built for food and beverages distributors.
- Cost factor is also a big challenge to adopt AI because margins are very thin in the food companies because pockets are tight for these companies not like Amazon and Google.

Suggestions

SWOT stands for Strengths, Weaknesses, Opportunities, and Threats. Let apply this to know better decisions for the food industry about the use of AI.

<p>Strengths</p> <p>The food industry with AI can check their ability that how they can do well together? What unique function of AI can you draw on? What can other competitors see as your strength?</p>	<p>Weaknesses</p> <p>What could be improved with AI? Where is the lack of application of AI for development? What did competitors notice as weaknesses area?</p>
<p>Opportunities</p> <p>What opportunities are open with the implementation of AI in food industry. What trends could you take advantage of? How the food industry can change their strengths with the opportunity of AI.</p>	<p>Threats</p> <p>In the threats section, companies can analyze threats which are caused by AI. What are other competitors doing with AI? What threats do your weaknesses expose?</p>

Conclusion

The global food and beverages market is expected to grow from \$5943.8 billion in 2019 to \$6111.1 billion in 2020 at a compound annual growth rate (CAGR) of 2.9%. The market is then expected to recover and grow at a CAGR of 7% from 2021 and reach \$7527.5 billion in 2023 (Research and Markets 2020). One fact that is noticeably clear with all the discussion and significance and role of AI in the food industry is that the food industry must invest in innovations to cut costs, increase revenue, and stay up to date with consumer trends.

References

- Acemoglu, D. a. 2017. “Robots and Jobs: Evidence from US Labor Markets.” National Bureau of Economic Research, Working Paper No. 23285. NBER Working Paper Series.
- Arntz, M. T. 2016. “The Risk of Automation for Jobs in OECD Countries: A Comparative Analysis.” *OECD Social, Employment and Migration Working Papers*, No. 189. OECD Publishing, Paris. <http://dx.doi.org/10.1787/5jlz9h56dvq7-en>.
- Bloom, N. E., Erik Brynjolfsson, Lucia Foster, et al. 2017. “What Drives Differences in Management?” *NBER Working Paper Series, Working Paper No. 23300*.
- Damlapinar, M. 2019, October 13. Artificial Intelligence Application in Food Industry.
- Emergen Research. 2021. Food market analysis - Market insight reports. Emergen Research Food and Beverage industries.
- Frey, C.B and Osborne, M.A. 2017. “The Future of Employment: How Susceptible Are Jobs to Computerisation?” *Technological Forecasting and Social Change*, vol. 115, pp. 254–280. <https://doi.org/10.1016/j.techfore.2016.08.019>.
- Furman, J. 2016, July 11. “The Economic Case for Strengthening Unemployment Insurance.” Remarks at Center for American Progress, Washington DC.
- Graetz, G., and Michaels, G. 2015. “Robots at Work.” Centre for Economic Performance Discussion Paper 1335. London School of Economics and Political Sciences.
- Olena, K. 2020, January 29. Technology in the Food Industry.
- Research and Markets. 2020. Food and Beverages Global Market Report 2020-30: COVID-19 Impact and Recovery.
- Sharma, T. 2019, May 2. “How Is AI Optimizing Food Supply Chain?” Global Tech Council. <https://www.globaltechcouncil.org/artificial-intelligence/how-is-ai-optimizing-food-supply-chain/>.

The Legal Regime of Contraventions Between the European Criminal Interpretation and the National Approach

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ABSTRACT: In an interdisciplinary manner, through this study we aim to highlight the outlook attributed by the European Court of Human Rights to the contravention area as a species of criminal law, the deeds characterized in the Romanian legislative system as contraventions enjoying the same treatment as any other criminal offence. We also capture the effects of the contraventional liability removal of certain deeds sanctioned by national law, in contrast to the operable decriminalization in penal law. Last but not least, having as research object, the comparative analysis of the particularities that characterize the Romanian contraventional law, we propose to debate some inadvertences for which the contraventional spectrum must be held to adapt to the accuracy imposed by the criminal law.

KEYWORDS: criminal charge, contraventional law, decriminalization, mental incapacity.

Reflections on the notion of *criminal charge* in national contraventional law

In relation to the autonomous nature of the notion of criminal prosecution found in European legislation (Article 6 paragraph (1) of the European Convention on Human Rights), meaning *the official notification given to an individual by the competent authority of an allegation that he has committed a criminal offence* (ECHR 1982, paragraph 52), to the point that the situation of the individual has been substantially affected (ECHR 1980, paragraph 46), the human rights forum classifies the field of contravention as a kind of criminal matter from the point of view of human rights, with all the consequences arising from it (Constanța Court 2020).

In this respect, although the European Court finds it appropriate to decriminalize certain offenses under national law (ECHR 2006, paragraph 58), the states cannot use the legal classification in the field of administrative law of certain categories of deeds, in order to evade the application of the European Convention on Human Rights article 6's protective guarantees (ECHR 1984, paragraph 49), having a criminal feature, both infractions and contraventions (Romanian Constitutional Court 2003).

Therefore, within the meaning of article 6 of the Convention, the concept of criminal charging is governed by what has come to be known in judicial practice in the form of the *Engel criteria* (ECHR 2019, paragraph 54), through which it is pursued the legal classification of the coercive measure in national law, the actual nature of the measure, as well as the severity of the sanction (ECHR 1976, paragraph 82). Even if these criteria can be analyzed individually, the actual nature of the contravention, considered also in relation to the nature of the corresponding sanction, constituting an appreciative basis with a higher caliber (ECHR 2008, paragraph 18), a cumulative assessment is rather recommended when we are faced with the uncertainty of the existence of a real criminal charge (ECHR 2009, paragraph 53).

From this perspective, even if the contraventional field is positioned in the external sphere of the criminal law (Iași Court 2020), to the penal illicit being specific a punishment, whilst the external-penal illicit being characterized by the reconstructive sanction (Romanian Supreme Court 2011), the purpose of the contraventional fine is not that of pecuniary compensation for damages, but of preventive punishment of contraventional recidivism (Suceava Court 2018), the reduced severity of the contravention sanctioning, as well as the lack of its important consequences in relation to the sanctioned individual cannot deprive the contravention of its

inherent criminal feature (Satu Mare Court 2020), reaching a unanimously accepted position by the national courts, according to which, the deeds characterized in the Romanian legislative system as contraventions enjoy an undifferentiated treatment in relation to crimes (ECHR 2008, paragraph 67), provided that the contraventional sanctions have an accentuated punitive nature (Sfântu Gheorghe Court 2020).

Considering the fact that there are criminal cases whose gravity is reduced, and consequently the criminal charge carrying a proportional attenuated weight (ECHR 2006, paragraph 43), the protective guarantees of article 6 of the Convention in respect to criminal charges may be applied in relation to the weight of the cause (Council of Europe 2014, paragraph 166), this also being the case of the contraventional law.

Even if, unlike the wide range attributed to the concept of criminal charge in the field of human rights litigation, the Court of Justice of the European Union uses a restrictive interpretation (Broek, Hazelhorst, Zanger 2010), excluding the criminal nature of administrative sanctions (CJEU 1992, paragraph 25), arguing that although the purpose of criminal sanctioning is to discourage, to suppress certain forms of conduct in relation to which it expresses social and ethical disapproval, it does not follow that every dissuasive sanction is also of a criminal nature (CJEU 2002, paragraph 18).

Thus, it is shown that the purpose of a criminal sanction goes beyond that of a simple deterrence and will normally involve aspects such as public disgrace or attribution of moral guilt, the amount of the punishment also reflecting society's disapproval of the behavior in question (Attorney General 1992, paragraph 11), an administrative sanction being independent of personal guilt (Attorney General 2001, paragraph 35).

Congruence between criminal law and contraventional law. Comparative elements between decriminalization and *decontraventionalization*

Starting from the legislative evolution of the national sanctioning provisions in connection with the state of emergency established on the Romanian territory, we are required to make a parallel analysis on the implications of decriminalizing provisions, both in criminal and contraventional matters.

Therefore, are convenient the findings of the Romanian Constitutional Court according to which, the legislative solution contained in article 4 of the Penal Code, *which does not assimilate the effects of a decision of the Constitutional Court by which it was found the unconstitutionality of an incrimination norm with those of a decriminalization law, is unconstitutional* (Romanian Constitutional Court 2018, paragraph 2), considering that *the effects of an admission decision, issued by the Constitutional Court, on a rule of incrimination must be immediate, applicable in both pending and final cases, and independently of the passivity of the legislator* (Romanian Constitutional Court 2018, paragraph 59).

In this respect, the national courts, supplementing the contraventional law with the provisions of the Penal Code, find that although the contraventional legislation is deficient in terms of regulating the more favorable law or of decriminalization (Ploiești Court 2020), the Constitutional Court decision establishing the unconstitutionality of sanctioning provisions in the field of contraventions generates similar effects to the abolishment of the law (Arad Court 2020), having the nature of a *decontraventionalization* law (Oradea Court 2020), pointing that the sanctioning papers concluded in compliance with the legal forms applicable at the date of finding the illicit deeds, prior to the declaration of contraventional decriminalization, are struck by total nullity (Arad Court 2020).

In this regard, the Constitutional Court has ruled in the past, establishing that the application of the more favorable contraventional law must be analyzed by reference to the time of its entry into force and the stage of the case, distinguishing whether sanctions were applied or not, in case of sanctions at the time of the entry into force of the new law, if this law no longer

provides for them, they can no longer be executed (Romanian Constitutional Court 2007, paragraph 8-9), which is equivalent to the retroactivation of the contraventional law which no longer sanctions the misdemeanor (Oradea Court 2020).

Therefore, the recent constitutional jurisprudence establishing as unconstitutional the entire sanctioning normative framework applicable for the period of the state of emergency (Romanian Constitutional Court 2020, paragraph 2-3), the effect of the legislative solution sanctioned by the Constitutional Court is that the guilty individuals can no longer be held accountable for these misdemeanors (Arad Court 2020), this reasoning being operable to the contravention sanctions applied and not executed until the date of its entry into force (Romanian Constitutional Court 2007, paragraph 10), hence for the decontraventionalization law that entered into force after the moment of the sanctioning, until the date of its full execution, the applied sanction will no longer be able to be executed (Ploiești Court 2020).

Consequently, there is a dilemma regarding the legal status of the sanctions applied, but also executed until the date of entry into force of the more favorable law, respectively, the differentiated legal treatment of *bona fide* citizens who have taken the necessary steps to pay the fine, until the date of entry into force of the Romanian Constitutional Court Decision no. 152 / 06.05.2020, but which did not litigated the misdemeanor by a court complaint.

It also arouses interest the cases in which the national courts have been vested, having as object a misdemeanor complaint, settled in the sense of rejecting the action for reasons of lateness, of nullity or obsolescence, the court no longer being able to rule on the impact of the Constitutional Court Decision in question (Oradea Court 2020), solution that has the effect of maintaining the provisions contained in the sanctioning act, so in contradiction with the constitutional solution of decontraventionalization.

To the fact that the Constitutional Court Decision no. 152 / 06.05.2020 empties of content the incriminating norm (Vișeu de Sus Court 2020), two currents of opinion are outlined in the national jurisprudence. On the one hand, there is an obligation on the notified court to extinguish the litigated sanctioning act (Brăila Court 2020), and on the other hand, it is considered that the decontraventionalization of the deeds cannot have the effect of annulling the sanctioning papers written prior to its entry into force, but only the impossibility to execute the fines established and consequential, the maintenance of the sanctioning acts as thorough and legal, with the impossibility of executing the contraventional sanctions (Ploiești Court 2020).

The decline of the contraventional legal regime in relation to the righteousness of criminal law

We note the need to define in the contraventional law the effects that the causes of impunity produce on the participants, respectively *in rem* or *in personam*, as well as the obligation to update them in relation to the evolution of connotations in criminal law.

In criminal matters the deed of the individual who at the time of the commission, could not realize his actions or could not control them due to a mental illness, is not imputable to him (Article 28 of the Romanian Penal Code). As such, irresponsibility can be defined as a state of mental incapacity that involves altering the subject's ability to understand the meaning of his actions and consequences of his deeds, as well as altering the process of self-determination and directing his will (Pașca 2014, 250). In contraventional area, it is retained as a characteristic of the absence of discernment, the lack of psychic faculty caused by mental illnesses such as schizophrenia, cretinism, mental weakness, early dementia, epilepsy, psychosis, which do not allow the perpetrator to understand the nature and significance of his deeds (Vaslui Tribunal 2017).

Taking into account the theoretical aspects presented, we highlight the case on a misdemeanor complaint filed by the petitioner against the report of finding and sanctioning the misdemeanor, by which he was sanctioned for insulting the pedestrians and for providing false informations for establishing his identity (Iași Court 2020).

Thus, in resolving the case in the sense of admitting the complaint and annulling the sanctioning act, the court held that the petitioner was not guilty in the sense given by the existence of the contraventional liability removal ground of irresponsibility, noting that the petitioner suffers from paranoid schizophrenia, lacking the discernment determined by the psychophysical state of the person to have the representation of his dangerous conduct and its consequences, voluntarily orienting his physical energy in relation to this conduct.

This reasoning of the court is ill-founded, as the petitioner being an adult, is presumed responsible for his actions, so having discernment and legal responsibility (Târgu Neamț Court 2018), and since the petitioner has been found to be mentally ill but has not been verified if he was placed under interdiction, the presumption of his capacity to exercise his rights still operates, in the sense of responsibility (Bucharest Tribunal 2017) and can only be removed by proving to the contrary (Afrășinei 2012, 81), the literature stating that insanity or mental weakness cannot in themselves constitute a case of impunity if the person concerned has not been placed under interdiction (Ungureanu 2013, 288).

The presumption of discernment existence, being relative, can be overturned by proving that the person in question suffers from a mental illness likely to abolish this discernment, considering that until the ban, even the mentally ill has the ability to exercise his rights (Constanța Tribunal 2020), in the present case, the petitioner was not subject to a forensic examination stating that at the time of the deed he lacked the ability to control his actions (Bucharest Tribunal 2019).

Similar to criminal cases, in the contraventional law operates the principle according to which the existence of mental illness is only an indication of irresponsibility, to prove the lack of discernment requiring a forensic psychiatric expertise (Pașca 2014, 246), considering that not all people with mental disorders lack discernment (Ungureanu 2013, 365) and that retainment of irresponsibility could be possible only by proving the total lack of discernment by concluding on the non-existence or abolition of the volitional aspect (Romanian Supreme Court 2019).

Therefore, in order for a person's mental state to determine the removal of the contraventional nature of the deed, it is imperative that the lack of discernment to be total, both intellectually and volitionally, as well as that the mental incapacity be ascertained by a specialized expertise (Piatra-Neamț Court 2014).

In this sense, we point out that, in the contraventional area, the finding of the cause of impunity for irresponsibility, involves the analysis by the court of the existence or lack of discernment of the perpetrator, ordered only by a medical expertise.

Conclusions

Noticing the inherently criminal nature that the supranational forums, but also the national courts attribute to the Romanian contraventional law, we find opportune the comparative analysis realized on some of the legal institutions that are found in both criminal and contraventional matters. In this respect, taking into account the legislative developments at national level, we find to be relevant the problems faced by the courts required to formulate solutions on the application of decriminalization rules, and on the particularities of contraventional liability removal cases regarding deeds, of either criminal or contraventional nature, committed by mentally insane individuals.

By presenting some of the problems facing national contraventional law, we pointed that there is an urgent need to reform the foundation of this branch of law, based on an interdisciplinary approach that captures the accuracy of criminal law.

References

- Advocate General 1992. Conclusions in the Case C-240/90. Accessed 22 May, 2021. www.curia.europa.eu.
Advocate General 2001. Conclusions in the Case C-2010/00. Accessed 22 May, 2021. www.curia.europa.eu.

- Afrăsinei M. et al. 2012. *Noul cod civil. Comentarii, doctrină și jurisprudență*. Bucharest: Hamangiu Publishing House.
- Broek M., Hazelhorst M. 2010. “Asset Freezing: Smart Sanction or Criminal Charge?” In *Merkourios*. no. 72.
- Civil decision no. 3599/08.06.2017 of Bucharest Tribunal. Accessed 22 May, 2021. www.rolii.ro.
- Civil decision no. 851/21.06.2017 of Vaslui Tribunal. Accessed 22 May, 2021. www.rolii.ro.
- Civil decision no. 507/08.02.2019 of Bucharest Tribunal. Accessed 22 May, 2021. www.rolii.ro.
- Civil decision no. 534/28.04.2020 of Constanța Tribunal. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 3419/16.10.2014 of Piatra Neamț Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 3626/27.11.2018 of Suceava Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 1499/29.11.2018 of Târgu Neamț Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 982/04.02.2020 of Iași Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 311/14.02.2020 of Sfântu Gheorghe Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 828/13.03.2020 of Satu Mare Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 3189/10.04.2020 of Constanța Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 3983/09.06.2020 of Iași Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 2543/13.07.2020 of Oradea Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 3507/15.07.2020 of Ploiești Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 835/16.07.2020 of Vișeu de Sus Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 2416/22.07.2020 of Oradea Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 2486/23.07.2020 of Arad Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 2980/28.07.2020 of Oradea Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 3922/29.07.2020 of Ploiești Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 3927/29.07.2020 of Ploiești Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 3594/03.08.2020 of Brăila Court. Accessed 22 May, 2021. www.rolii.ro.
- Civil sentence no. 3123/04.08.2020 of Oradea Court. Accessed 22 May, 2021. www.rolii.ro.
- Council of Europe / European Court of Human Rights 2014. “Guide regarding art. 6 of the Convention - The right to a fair trial (criminal feature)”. Accessed 22 May, 2021. www.echr.coe.int.
- Court of Justice of the EU 1992. Judgment of the Court in Case C-240/90. Accessed 22 May, 2021. www.curia.europa.eu.
- Court of Justice of the EU 2002. Judgment of the Court in Case C-210/00. Accessed 22 May, 2021. www.curia.europa.eu.
- Criminal Code. Published in the Official Gazette no. 510/24.07.2009.
- European Convention on Human Rights. Ratified by Romania through Law no. 30/1994. Published in the Official Gazette no. 135/31.05.1994.
- European Court of Human Rights 1976. “Judgment in the Case of Engel and others v. The Netherlands”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-57479.
- European Court of Human Rights 1980. “Judgment in the Case of Deweer v. Belgium”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-57469.
- European Court of Human Rights 1982. “Judgment in the Case of Foti and others v. Italy”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-57489.
- European Court of Human Rights 1984. “Judgment in the Case of Öztürk v. Germany”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-57553.
- European Court of Human Rights 2006. “Judgment in the Case of Grecu v. Romania”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-123067.
- European Court of Human Rights 2006. “Judgment in the Case of Jussila v. Finland”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-78135.
- European Court of Human Rights 2008. “Judgment in the Case of Anghel v. Romania”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-123074.
- European Court of Human Rights 2008. “Judgment in the Case of Hüseyin Turan v. Turkey”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-85343.
- European Court of Human Rights 2009. “Judgment in the Case of Sergey Zolotukhin v. Russia”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-119637.
- European Court of Human Rights 2019. “Judgment in the Case of Mihalache v. Romania”. Accessed 22 May, 2021. hudoc.echr.coe.int/eng?i=001-194523.
- Pașca V. 2014. *Drept penal. Partea generală*. Bucharest: Hamangiu Publishing House.
- Penal decision no. 874/07.03.2011 of Romanian Supreme Court-criminal department. Accessed 22 May, 2021. www.scj.ro.
- Penal decision no. 191/A/29.05.2019 of Romanian Supreme Court-criminal department. Accessed 22 May, 2021. www.scj.ro.
- Romanian Constitutional Court 2003. “Decision no. 197 regarding the exception of unconstitutionality of the provisions of art. 12 para. (1) of Government Ordinance no. 2/2001”. Published in the Official Gazette no. 545/29.07.2003.

- Romanian Constitutional Court 2007. “Decision no. 228 regarding the exception of unconstitutionality of the provisions of art. 12 para. (1) of Government Ordinance no. 2/2001 regarding the legal regime of contraventions”. Published in the Official Gazette no. 283/27.04.2007.
- Romanian Constitutional Court 2018. “Decision no. 651 regarding the exception of unconstitutionality of the provisions of art. 595 para. (1) of the Code of Criminal Procedure and of art. 4 of the Criminal Code”. Published in the Official Gazette no. 1083/20.12.2018.
- Romanian Constitutional Court 2020. “Decision no. 152 regarding the exception of unconstitutionality of the provisions of art. 9, art. 14 letters c ^ 1) -f) and of art. 28 of the Government Emergency Ordinance no. 1/1999 on the regime of the state of emergency and of the emergency ordinance, as a whole, as well as of the Government Emergency Ordinance no. 34/2020 for the amendment and completion of the Government Emergency Ordinance no. 1/1999 on the state of siege and the state of emergency as a whole”. Published in the Official Gazette no. 387/13.05.2020.
- Ungureanu C. T. 2013. *Drept civil. Partea generală. Persoanele*. Bucharest: Hamangiu Publishing House.
- Ungureanu O., Munteanu C. 2013. *Drept civil. Persoanele*. Bucharest: Hamangiu Publishing House.

The Block Chain Technology – A Catalyst of the Fintech Revolution

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ABSTRACT: The block chain is seen as a new generation of the Internet, even called by some experts the New Internet. It can also be considered as an Internet of Transactions. These definitions tend to associate the block chain with the concept of the Internet of the People who use it daily and which are in turn extended to the Internet of Things (IoT) or to Internet of Value. This type of technology has multiple uses in financial and banking sector, but one of the most notorious applications associated with block chain remain the so-called cryptocurrencies. This field has grown rapidly in recent years, and the key to success and growing popularity are the seven principles: Decentralization, transparency, and security through security, stability and constancy over time, consensus, and responsibility.

KEYWORDS: Block chain, finance, cryptocurrencies, bitcoin, Fintech

Introduction

It is quite difficult to present the concept of block chain through one definition seeing how, judging from the perspective that it's being looked upon, it can generate a variety of lecture keys depending on the angle it's being approached from.

The block chain can be considered a part of the technological field whose register is structured as a chain of blocks containing transactions whose validation is entrusted to a consensus-based mechanism shared on all network nodes in the cases of *permission less* block chains, which do not require permission, since they are public, or just certain nodes authorized to participate to the transaction validation processes in the case of the *permitted* or *private block chain* category.

The main characteristics of the block chain technologies are the invariability of the action register, transparency, the ability to track transactions and security in the sense having security based on cryptographic technologies.

The block chain is based on the web network and, when it comes to its abilities, it allows the managing of a database in a distributive way. From an operational point of view, it is an alternative to centralized archives that allows data *upgrade*-type of management with the involvement of authorized partners in the network and with the possibility of accessing shared date bases, accessible and distributed to all of the participants while allowing their management under conditions of verification and authorization without the need for a central authority.

In our try to define what the block chain is we will start from already-established definitions in this field, trying to use the most accurate of descriptions. For many, the block chain is heralded as a new generation of the Internet or even the New Internet. It can be said that this is an Internet of Transactions. These definitions tend to associate the block chain to the concept of the Internet of the People, or the Internet of the Individuals that are using it and attending to it daily and which, in turn, is extended into the Internet of Things (Alam 2019) to reach, eventually, the definition and representation of the Internet of Value, based on seven characteristics:

- Decentralization
- Transparency
- Safety through security

- Stability and consistency over time
- Consensus
- Responsibility
- Programmability

1. The block chain in the financial and banking domains

Of all the domains experiencing an accelerated growth in this stage of the society's evolution, the economic and financial domains are the most watched by the investors who are watching the block chain technology (Guo & Liang 2016). Because the scope of the block chain technology does not have the concept of an intermediate when it comes to transaction management, the block chain technology can eliminate the costs of bank fees and financial services, therefore allowing for savings, a maximum reduction of the costs involved in transaction management, a dramatic shortening of execution time and increasing the degree of confidence in conducting transactions. Banks and financial institutions are the first ones to want to invest in this new technology and grab as much of a slice of this market as possible, seeing how it is already showing an alluring list of opportunities and participation possibilities.

1.1. Block chain technology and Central Banks: CBDC, Central Bank Digital Currency

It is self-understood that the banks have managed, for quite some time now, to transform the “threat” of the block chain (Bitcoin) into an opportunity (Dashkevich, Counsell, & Destefanis, 2020). One emblematic example comes from the central banks and therefore, from the main institutions of the banking world which, as it is clearly highlighted in the WEF World Economic Forum Report called “*Central banks and the distributed registry technology: how are central banks exploring the block chain today?*” is actively working on projects that can benefit from the block chain technology (Toshendra 2020). The report indicates ten major priorities but the real key point, the one where it's important to focus our attention, is the creation and support for a digital currency of the central bank or CBDC.

However, CBDC should confer various characteristics to specific cryptocurrencies that appear, but are not issued by any state and have no coverage at a national economic level in the same way traditional currencies do.

CBDC currency is not in a “competition” with the present-day banking system but it does represent an innovative monetary tool in a digital format, valid as a payment instrument, as a reserve / value deposit and as tools designed to increase the security of transactions in terms of identification, tracking, prevention, and reduction of counterfeiting risks and exposure to fraud (World Economic Forum 2019).

Next to CBDC, the central banks have, according to the WEF report, the next ten main priorities when it comes to the block chain:

- Central Bank Retail Digital Currency (CBDC)
- Wholesale Central Bank Digital Currency (CBDC)
- Settlement of interbank securities
- Strength and contingency of the payment system
- Issuing bonds and managing their life cycle
- Knowing the customer and combating money laundering
- Exchange of information and exchange of data
- Trade financing
- Cash supply chain
- SEPA creditor and Customer identified (SCI)

1.2. The block chain for those without bank access

A delicate topic is the one about people who do not have access to banking services, and this aspect is a reality as well as a great opportunity on both a social and a business level (Viriyasitavat & Hoonsopon, 2019): offering access to a bank to those who do not have one, or those who do but do not have access to all the banking and financial services. We are talking about the *Unbanked*, 31% of the world's population which means, in absolute terms, 1.7 billion people. For credit institutions seeking new business, it might seem like the "Eldorado" if the unbanked do not have the possibility of bank access. We are speaking about Facebook, which is among the promoters of project Balance (Balance Association) that is ready to give life to a cryptocurrency, Balance that also has the mission to serve all those who cannot have a bank today and who will be able to pay, send, receive money and manage financial services tomorrow due to their smartphones.

After all, the interest of the banks when it comes to the unbanked has not been a secret for some time. Goldman Sachs declared that Block chain is going to revolutionize the industry, while Barclays and USB publicly admitted to the possibility of using the technology in a variety of operational areas, from remittances to contracts. The bank of England has declared that it has created a series of development teams in its organization. Instead, in September, R3 was born, which is a private consortium of financial institutions interested in the potential of Block chain. A new round of meetings took place in December, which widened the scope of interest with the entry of BMO Financial Group, Banco Santander, Scotiabank, Sumitomo Mitsui Banking Corporation, USA Bancorp and Westpac Banking Corporation. Today, a total of 42 banking institutions have joined the federation.

But there are also those who've already moved from words to action: Bank of America filled in the U.S.A. at the Patent and Trademark Office (USPTO) 15 block chain-related patents and is expected to file another twenty in the upcoming period. The Bank of America patents aim to create systems for identifying cryptocurrency-related risks and alerts in case of suspicious users.

Evidently, there are also disadvantages to this. If, on one hand, the banks are attracted to the possibility of engaging in cheaper and safer transactions, on the other hand, the idea that the participants to the network can observe, in real time, the data being transmitted through the nodes is considerably diminishing the enthusiasm of those who do not want their transactional flows to become public. Therefore, it's necessary to make sure that each user has the accreditation to only see the operations related to him.

1.3. The block chain and the insurance domain

The insurance and reinsurance domain grants special attention to the new block chain technology that can come to the help of everyone who serve or are being served in the insurance field, so lower we are going to list some of the opportunities and benefits that the block chain technology can bring:

- Access to safe and decentralized transactions by providing solid databases, unchangeable and not subject to the possibilities of fraud or corruption in order to guarantee a government of superior quality and efficiency, to have reliable reporting databases and reports, with timely notifications of any change happening that will allow an improvement in risk management and maximizing the use of risk capital and one's own equity, with the possibility of adopting the strategies generated by access to the Big Data domain, possibilities which are essential and useful in obtaining safer information and data about customers, about their preferences and priorities, as well as for the possibility of access to the databases of a third party.

- The participation of insurance companies to the block chain technology can capitalize on the opportunity to integrate them into complex ecosystems together with third parties in

order to reduce the cost of customer portfolios management and administration platforms, improving, at the same time, the client – insurer relationship, the market shares and the possibility to find new solutions for evolution within new opportunities (Gatteschi et al. 2018).

- At the insurance market level, new management opportunities can be found through access to superior consistency and quality databases doubled by the possibility of comparing and exchanging experiences with third parties who are dealing with more sophisticated risk management systems, such as the ones for insurances in the cybernetic domain.

1.4. The block chain and the digital payments domain

When it comes to digital payments the block chain technology also offers an important series of opportunities. One of the yet-unresolved drawbacks is the time it takes to elaborate and execute transactions that don't keep pace with the speed at which the world works.

Even the level of system performance has to be enhanced as well as the norms regarding the speed with which digital payments are made, which is not always able to keep up with the speed with which productions, delivery of goods and services are taking place. The current level of applicability of the block chain technology will have to keep up with the improvements of production and distribution technologies.

2. The block chain and the 4.0 industry

Even in the manufacturing production, the block chain technology can be an important ally. Thanks to the block chain and the *4.0 level* of development of the industry a better integration and development of production, logistics and distribution chains is now possible together with the base zones of industrial units (Mohamed & Al-Jaroodi 2019). The block chain can allow and proposes particular, specific solutions for transforming the industries for a more efficient management of domestic production logistics and for a better synchronization and synergy of the relations happening on the production and distribution channels.

Specifically, by particularizing, solutions were created and developed which now allow adapting logics such as “Trust” which is now widely used in the area of digital payment, but also for transactions whose object is data packages representing unique identities and identification values for certain products and their production processes. Under these conditions, it is strictly necessary for production and distribution agencies to have a maximum level of confidence in terms of managing the identity of materials throughout the production and delivery processes.

2.1. The block chain and the IoT (Internet of Things)

In the case of IoT, as well, technology and the block chain platform can be of great use especially in the domain of quick and efficient data exchanges between devices connected to the IoT world (Viriyasitavat, Anuphaptrirong, & Hoonsopon 2019).

Thanks to the correct and fast reactions, the speed of the processes of identifying things between them is raised, something which really facilitates the processes along the distributions chains, the food industry being a first example of this (Yiannas 2018).

Why is the possibility of a rapid identification reaction between objects and things involved in the industrial and technological processes so important? The answer to this question comes from the need to facilitate interactions between people and the things involved in the technological processes along the entire distribution chain, starting from acquiring the supply of raw materials up to the packaged and ready for distribution product located at the end of the trajectory on which each of the products evolves.

Through the block chain, the identification, tracking and Timestamp process gives the maximum unique identification of each product or person who has had to deal with the production and distribution process.

2.2. The other possible field of application, from Public Administrations to National Companies

It's not just banks that see the block chain as a lever for strategic development. If many observers say they're convinced that public administration practices and even personal data and identity documents can be managed by exploiting the distributed control systems offered by the block chain (even those applicable to notarial activities or intellectual property management), we can begin to assess the positive impact of technology on private companies too.

The next step? Implementing it in the business networks, with the automation of the procurements processes through real-time notification systems, constant and shared monitoring of assets available for sale and purchase and, again, generating precise, gradual barriers of entry for participation in exchanges.

However, much of the application scope of the block chain technology is in large part dependent on the openness of the technology vendors to first understand, then embrace and, further down the road, implement the logic of the block chain into their offer. There are already enough people thinking about it. But the game is interdisciplinary as well as international and, in addition to developing technical solutions that answer to concrete – and still unresolved – problems, an important information and awareness activity is also required in order to involve the institutions and associations into defining system regulations through active regulatory requirements.

2.3. The block chain and the reality: what to expect

The block chain has been drawing more and more attention lately and we can say that, despite the fact that it is a complex technology, it has become a *mainstream* subject, the problems of the block chain are being tackled by large newspapers, radios and TVs which rarely focus on such innovative technologies. In many cases, the block chain is proposed as the *solution* to the problems and needs which come from far away and were never fully satisfied by traditional technologies.

Expectations, not only of the companies but also of the consumers, of citizens, in regards to the possibilities of the block chain have increased tremendously. On one hand, this situation favors debates and raising awareness from those working on developing new solutions but, on the other hand, it creates a “dangerous” situation because some of the “beneficial effects” attributed to the block chain today are the results of misunderstandings or a distorted lecture / interpretation of the very important possibilities of this technology. The risk is that, if the block chain is now given central stage for everything that it can do well, if it doesn't “follow up on those promises” in an equally radical manner, it can be “set aside” and forgotten.

3. Conclusions

The block chain is a quite recent phenomenon that has gone through an important series of qualitative accelerations and jumps and that has created many expectations. At the same time, developing and implementing the block chain is not an easy task and there isn't a single company that can do it by itself. For everyone, manufacturers, companies or user organizations, the block chain is an ecosystem phenomenon, of a collaborative type.

For the same reason, if, on one hand, the level of attention surrounding the block chain is extremely high, on the other hand, the number of actual cases, of projects actually being produced in companies and organizations is still fairly low.

There are several aspects to keep an eye on in the following years. First of all, there is much to do to increase the *awareness* – the phenomenon started in 2011 and still ongoing. There are business and organizations trying to understand and develop new fields and knowledge based on the block chain technology. When it comes to *experimentation*, we can conclude it began in 2017 and will last until 2023. Companies and organizations are working to create new skills, forms of collaboration, concepts and consortia, in order to fully understand the potential and criticism that comes with the block chain.

The last key aspect in fulfilling block chain technology potential is *transformation*. The first visible and tangible results have been observed since 2019 and will accompany us until 2025 and during this period the block chain will transform the ways of relating, integrating, collaborating, bringing innovations to several levels: technology, finance, data management and governance.

References

- Alam, T. 2019. “Block chain and its Role in the Internet of Things (IoT).” *International Journal of Scientific Research in Computer Science, Engineering and Information Technology*.
- Dashkevich, N., Counsell S., & Destefanis G. 2020. “Block chain application for central banks: A systematic mapping study.” *IEEE Access*, 139918-139952.
- Gatteschi, V., Lamberti F., Demartini C., Pranteda C., & Santamaría V. 2018. “Block chain and smart contracts for insurance: Is the technology mature enough?” *Future Internet* 10(2):20. <https://doi.org/10.3390/fi10020020>.
- Guo, Y., & Liang, C. 2016. “Block chain application and outlook in the banking industry.” *Financial Innovation* 2(24): 1-12. <https://doi.org/10.1186/s40854-016-0034-9>.
- Mohamed, N., & Al-Jaroodi, J. 2019. “Applying block chain in industry 4.0 applications”. *2019 IEEE 9th Annual Computing and Communication Workshop and Conference (CCWC)*.
- Toshendra, K.S., 2020. “Permissioned and permission less block chains: a comprehensive guide.” *Block Chain Council*. <https://www.blockchain-council.org/author/toshendra/>.
- Viriyasitavat, W., & Hoonsopon, D. 2019. “Block chain characteristics and consensus in modern business processes”. *Journal of Industrial Information Integration* 13: 32-39.
- Viriyasitavat, W., Anuphaptrirong, T., & Hoonsopon, D. 2019. “When block chain meets Internet of Things: Characteristics, challenges, and business opportunities.” *Journal of Industrial Information Integration* 15: 21-28.
- World Economic Forum. 2019. “Central Banks and Distributed Ledger Technology: How are Central Banks Exploring Block Chain Today?” *World Economic Forum*. http://www3.weforum.org/docs/WEF_Central_Bank_Activity_in_Blockchain_DLT.pdf.
- Yiannas, F. 2018. “A new era of food transparency powered by block chain. Innovations: Technology, Governance.” *Innovations: Technology, Governance, Globalization* 12(1-2): 46-56.

Is ‘Silencing the Guns’ Achievable in Africa: Drawing Lessons from Conflict Transformation

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ABSTRACT: The continuing insecurity, instability, disruption of political harmony, erosion of social cohesion, destruction of the economic fabric and public despondency in various parts of Africa call on the Peace and Security Council (PSC) to play a locomotive role in spearheading strategic interventions to put this sad situation to an end. Most crises and violent conflicts in Africa are being driven by poverty, economic hardships, violation or manipulation of constitutions, violation of human rights, exclusion, inequalities, marginalization and mismanagement of Africa’s rich ethnic diversity, as well as relapses into the cycle of violence in some post-conflict settings and external interference in African affairs. Undoubtedly, these challenges can be overcome, as long as the correct remedies are identified and are applied. Following the adoption of the “*Silencing the Guns*” initiative by the Fifth African Union High-Level Retreat on the Promotion of Peace, Security and Stability in Africa, this study analyzes the failures and successes of this initiative towards current happenings, and what can still be done through a conflict transformation perspective. While using practical examples, a range of methods used in conflict transformation, and combining theoretical inputs on specific conflict transformation initiative and processes, it remains important to note that every conflict is different and will require its own tailored-made approach to understanding and solving it.

KEYWORDS: African Union, Conflict transformation, Peace and Security, Silencing the guns

Introduction

As the question continues to pop up; can we have a conflict-free Africa? African nations have been ravaged by numerous conflicts for the past years and presently the problem is far from being abated. This remains a challenge to its peace and security in global times as most conflicts result from poverty, inequalities, tribalism, oppression, bad governance and leadership, all too easily associated with authoritarian and long-lasting regimes that have led to increase poverty and economic disproportionality on the down-trodden. In their article (Bakken and Siri 2018, 3), states that the past six decades, has witnessed very severe civil wars in the African Continent. Some of the deadliest conflicts, such as the Biafran War in Nigeria in the 60s and 70s, the Congo Wars and the Rwandan genocide in the 90s, and the Ethiopian and Eritrean war in 1999 –2000, have come to an end. Yet, in recent years, the number of conflicts has grown substantially there has been a marked increase in the number of state-based conflicts in Africa over the past five years. In 2017, Africa experienced 18 state-based conflicts. While this is a decrease from the all-time high of 21 conflicts in 2016, it is substantially higher than ten years ago. In addition, there has been a marked increase in the number of state-based conflicts in Africa over the past five years. In 2017, Africa experienced 18 state-based conflicts. While this is a decrease from the all-time high of 21 conflicts in 2016, it is substantially higher than ten years ago. What is the cause of the sharp increase? The main driver of the increased number of conflicts is the involvement of IS in existing conflicts. For example, IS has gained traction in the area around Lake Chad, where there are already Islamic conflicts taking place. Thus, the conflict in Northern Nigeria is no longer just a conflict between the Nigerian government and Boko Haram, but also between the Nigerian government and IS. In 2017, five of the state-based conflicts in Africa were related to IS, in Chad, Libya, Mali, Nigeria, and Niger. Further, while the number of conflicts has increased substantially, the number of countries in which conflicts are taking place has increased only slightly. In 2007, Africa saw 12 conflicts in 10 countries. Ten years later, in 2017, the number of conflicts was 18, taking place in 13 different countries. This suggests that while the number of actors involved in conflicts within

each country has increased, possibly increasing the complexity of conflict, the geographic span has not enlarged to the same extent. And until 2000, the number of people killed in state-based conflict corresponds to some extent with the growth in the number of conflicts.

However, in the past few years, the increase in conflict numbers has not been accompanied by a corresponding growth in battle deaths. In 2017, state-based violent conflicts in sub-Saharan Africa have been responsible for the direct and indirect deaths of millions of civilians and has contributed significantly to the low levels of human security in the region. The countries of sub-Saharan Africa that have been embroiled in violent conflict are characterized by abject poverty, inadequate service provision, political instability, retarded economic growth and other challenges to overall development that deter the enhancement of human security. The successful and sustainable resolution of these conflicts represents an enormous barrier to future prosperity in the region. (Arusha AU High Level Retreat Report 2014, 8). A major challenge in Africa's peace and security field is how to secure lasting resolutions to conflicts. Several regions in Africa have experienced armed wars caused by the resurgence of old problems previously deemed to have been resolved, or those that were managed to the point of dialogue. About half of all post-conflict countries relapse into conflict within a decade (Opongo 2013, 94). As policy makers, leaders, and scholars what actions can we take, and what lessons can we draw from both current and historical conflicts about the most effective strategies and tactics in internal conflicts. Can insurgents be defeated by silencing guns? How can governments undermine support for rebel forces by providing security and public goods to civilians? What will it take to silence the guns in Africa the 21st century? As academic researchers we must hold open questions that mean well for what future we want, and that guides us to achieve lasting solutions to local and global problems that inspires our work for a common struggle in transforming conflicts for a better world.

The African Union's (AU) Agenda for Africa in Resolving Conflict

From 21 to 23 October 2014, the African Union (AU), in collaboration with the Government of the United Republic of Tanzania, hosted the Fifth High-Level Retreat on the Promotion of Peace, Security and Stability in Africa. Held in Arusha, Tanzania, and supported by the African Centre for the Constructive Resolution of Disputes (ACCORD) and Institute for Security Studies (ISS), the retreat brought together a range of senior representatives from the African Union Commission (AUC), including the commissioner for peace and security and special envoys, special representatives and distinguished mediators. Also in attendance were members of the African Union Panel of the Wise (AU PW) and Friends of the Panel of the Wise, senior representatives of the continent's regional economic communities (RECs) and regional mechanisms (RMs), as well as eminent officials from the United Nations (UN), European Union (EU), League of Arab States, and civil society organizations. Convened under the theme 'Silencing the guns – owning the future', the objective of the retreat was to provide a platform for delegates to take stock of the paradox that is Africa in terms of unprecedented levels of economic growth on one hand, and rising instability and insecurity in a number of particularly concerning regions and member states on the other. Recognizing this, and building on references to Agenda 2063 and the AU's 50th Anniversary Solemn Declaration (2013) vision of ending all wars in Africa by 2020 and 'silencing the guns' (also known as Vision 2020), the retreat further sought to provide a platform for collective multi-stakeholder deliberations on existing and emerging peace and security threats to the continent, and the responses required to address these and achieve a war-free continent by 2020.

Efforts in Tackling the illicit proliferation of small arms and light weapons

The illicit proliferation of small arms and light weapons (SALW) destabilizes communities, negatively impacts security and compromises development in Africa. It is interesting to note that

SALW are the main instruments used in armed conflicts in Africa, and that the persistence and increasing number of wars on the continent can partially be attributed to the illegal proliferation of small arms (Enuka 2012, 21-33). Small arms include revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns. Light weapons include heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns and anti-tank guns, recoilless rifles, portable launchers of anti-aircraft missile systems and mortars of calibres less than 100 millimetres (Organization of African Unity and Institute for Security Studies 1998). Only a very small percentage of these weapons are produced on the continent; the majority are introduced via illegal channels (Institute for Security Studies n.d.).

(Statistics on the terrible impacts of the proliferation of SALW in Africa identify the phenomenon posing one of the biggest hurdles to development on the continent. Over the last 50 years, Africa has suffered no less than five million fatalities, attributed to SALW (Ahere and Ouko in Arusha AU High Level Retreat Report 2012, 15). These deaths have been caused by the estimated 30 million firearms on the continent. SALW have serious impacts on the trajectory of socio-political and economic development in Africa, contributing to weakening affected governments' abilities to function effectively. During civil strife, their widespread use triggers humanitarian disasters, which impede sustainable peace. They also threaten civil aviation growth, which is an important catalyst of development in a globalizing world. The spread of SALW also contributes to long-term societal re-engineering that encourages and glorifies gun culture, while increasing propensity to use force to resolve conflicts within specific social groupings, particularly where violence, massive organized crime or political brinkmanship have been part of a community for a long period of time. A number of continental protocols are in conceived to deal with the menace of SALW in Africa. Key ones include the:

- i. Economic Community of West African States (ECOWAS) Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons in West Africa, which was adopted and signed in Abuja, Nigeria, on 31 October 1998 by ECOWAS heads of state and government
- ii. October 1999 OAU Decision on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons taken by heads of state and government of the OAU at its 35th session held in Algiers, Algeria
- iii. Southern African Development Community (SADC) Council Decision on the Prevention and Combating of Illicit Trafficking in Small Arms and Related Crimes which was taken in Maputo, Mozambique on 17 and 18 August 1999
- iv. March 2000 Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, passed by representatives of governments based in the affected regions. Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, made in December 2000 by member states of the OAU at a meeting in Bamako, Mali. In intensifying efforts to silence the guns by 2020, it will be important for stakeholders to reflect on the aforementioned initiatives, gauge their successes and evaluate their challenges and, based on these assessments, implement realistic actions.

Current conflict Trends: Cameroon's Anglophone Crisis as a failed Model under AU's Silencing the Guns

The African Union's 'Silencing the guns' initiative continues to look to many as a policy –making achievement that was endorsed by all member states but not one that could be seen with visible results. There is no African state that can account for efforts made as it is already gone pass 2020. We clearly see this in a country like Cameroon going through a current conflict. Violence has

taken a toll on the minority English speaking regions, known as the Northwest and Southwest regions of Cameroon. The war which spans four years and still going has been a battle between government forces and separatists from the English-speaking background. The separatists have been fighting for their own independent country called ‘Ambazonia’, due to long years of marginalization, poverty and the feeling of not belonging. Often described as the Anglophone crisis, the conflict has left more than 3000 dead, 534, 000 displaced persons with an increasing amount of them running into neighboring Nigeria for their safety. Casualties have been on both sides between state and non-state actors, including the vulnerable population. In 2018, the Norwegian Refugee Council named it as the most neglected crisis in history. So far, Human rights groups and members of the international community continue to call for ceasefire and proper dialogue based on negotiations from the government in particular, and both parties in general. But, such call has only fallen on deaf ears as no party heeds to it. The question now is what does silencing the guns really mean for Africa and how effective? Especially when African governments are the biggest perpetrators of heavily militarizing their own communities often times putting the masses at the disadvantage and risk of battling for their very own lives. According to (Patricia Lynne Sullivan 2019, 2220) proceeding from the assumption that violence against civilians is strategic, multiple studies have found evidence that governments are more likely to engage in mass killing to counter guerilla insurgents, as opposed to conventionally structured opposition forces (Valentino 2014, 375–407). Because the support of the population is so critical to irregular forces, and guerilla forces themselves can be difficult to target, governments may target civilians in terror campaigns designed to deter them from providing materials, protection, and intelligence to the rebels (Balcells and Kalyvas 2014; Downes 2008; Valentino, Huth, and Balch-Lindsay 2004). (Krcmaric 2018, 18–31), however, argues that governments should be less likely to victimize civilians in guerilla wars precisely because these wars are a contest between the government and the rebels for the “HaM” of the population. In support of his argument, he finds that mass killing is more likely in civil wars fought with conventional military strategies than in armed conflicts against guerilla forces. Many African governments continue to use arms and force as an enforcement for their military’s’ might and power. Thus, allowing us to ponder on the issue why militaries should be heavily equipped with arms in the first place that simply allows for gross brutality, on communities within nations that disproportionately suffer socially, economically, and politically. On the one hand, it shows the impossibility of putting a total embargo to the proliferation of arms coming into Africa. On another, lifting arms embargo would only strengthen those who seek to amass weapons for their own political gain and sign the death sentences of civilians desperate for an end to the suffering caused by these weapons. As we reflect on what it is about political power that some with access use it to hurt or squash their people rather than lift them up, (Chris Nshimbi, n.d) notes “the efforts to ‘silence the guns’ has been singularly ineffective. Conflicts in Africa have increased since the signing of the pledge. For meaningful progress to be made, the African Union needs to recognize this, and design solutions to conflicts that are informed by the need to protect human rights. The continental body should be empowered to act against any party that violates core values centered on human dignity. Secondly, given that many reasons are internal, arising from the grievances citizens have with their governments, this internal dynamic appears to have been ignored from the outset.” Proponents of the aforementioned initiative contend that the continent needs its own solutions, which will take into consideration factors that suit the particular conditions of the region (e.g., ethnic groups, ancestral and cultural heritage and religious ties, etc.) (Ngomba-Roth 2008). Undoubtedly, the AU and its member states have been adept at developing ideas on how to resolve the continent’s peace and security challenges with African statesmen, with negotiators taking center stage in efforts to resolve various conflicts on the continent. According to many analysts, however, significant challenges still remain, ranging from insufficient technical capacity and expertise, as well as lack of political will to oversee and ensure the implementation of genuine solutions. In addition, the role of non-African actors remains largely inadvertent in the interdependent global system, which is understandable

when contemplating gaps in Africa's capacity to address its challenges. In other words, Africa's problems are also linked to those of the world (the opposite applies too) and it wise not to completely lock out ideas from external actors just because they are non-African. The ideas should instead be considered on their own merit before being applied or declined. In the context of this debate, it is important to make plans based on the results of candid inclusive discussions on Africa's capacity and preparedness to pursue sustainable solutions to the internal and external factors that drive and sustain violent conflicts on the continent. African leadership should be built on promoting good governance and wellbeing of the populace, not propping up rabidly oppressive dictators and ignoring political abuses.

How much Commitment is Needed for AU Member States?

The effectiveness of a supranational institution is highly dependent on the political will and commitment of its member states. For the AU to achieve success in spearheading the realization of Vision 2020, it is imperative that it receives support from its member states. The member states must be willing to sign, ratify and domesticate existing normative frameworks on peace, security and governance. Experts posit that sustaining a credible framework and system of legal rights and obligations requires strong monitoring and surveillance mechanisms (Ross-Larson 2004, 24). Simply put, the AU cannot expect to succeed if it depends solely on unenforceable protocols whose implementation depends on the best intentions of member states. Political will, where present, needs to be reinforced with financial commitments since, as it stands, many concerned countries are in arrears as far as AU membership contributions are concerned (Ajayi and Oshewolo 2013, 3-16). It is undeniable that the success of the AU is largely dependent on its ability to self-fund the implementation of its programs. To ensure and protect the financial sustainability of the organization, member states ought to incorporate financial subscriptions to the AU into their national budgets. The AU should also explore means of generating funds from the continent, but outside member states' contributions. This could involve, for example, forming or making use of existing continental financial institutions like the African Development Bank (AfDB) to invest in high-return global financial investments.

International Allies and What Sanctions to Non-Retreat to a Call to Ceasefire?

As recent as March 2020, the Secretary General of the United Nations, Antonio Gutierrez, issued an urgent appeal for a global ceasefire in all corners of the world for all warring parties to lay down their weapons in support of the battle against COVID-19. Even though warring parties were supposed to pull back from hostilities and put aside mistrust and animosity, security and peace measures remain questionable up till date as to what sanctions were put in place for warring parties. As we question, how do we halt the turmoil? Conflicts are on the surge in Africa as a non-retreat to the ceasefire continues to be observed by warring parties throwing communities into turmoil. But this also offers a chance to reassess what changes can be made to ensure that future generations inherit a world that is safe, secure and protects the most vulnerable. A number of agencies are well positioned to strengthen their work in the area of peace and security. The agencies and staff of the United Nations and other Peace-Keeping International organizations have both the opportunity and the challenge to address the impact of war. Since the 1990s, the practice of the UNSC in terms of sanctions has gone through marked changes that have opened up avenues for research (Eriksson and Wallenstein 2015, 1839-1840). First, it has moved from comprehensive to targeted sanctions (so-called 'smart sanctions'). Second, the scope of UN sanctions has increasingly expanded to target particular entities, including individuals, organizations and companies. This has opened up an entirely new research area in the sanctions field, in that previous scholarship looked mainly at the relations between the UN and governments. Third, there has been a new ambition to examine the impact of UN sanctions within individual cases, through the lens of

sanctions episodes. For example, there was repeated support in the UNSC for UN sanctions against Yugoslavia during the 1990s, even though the western countries and Russia had been supporting different actors during the conflict. The decisions on sanctions in the cases of international terrorism in 2001 and of Libya in 2011 follow a similar pattern. Sanctions remain a blunt instrument; but targeted sanctions have, in all likelihood, reduced the costs to both the sender and the targeted country, compared to the earlier, comprehensive type of sanctions. For instance, they do not involve the paralysis of an entire economy, and thus avoid the humanitarian consequences that were reported in the 1990s as ensuing from the comprehensive sanctions on Iraq. In sum, then, contemporary sanctions research has mainly been concerned with the degree of compliance with UN demands. Most often, the research focus relates to the onset, pursuit and ending of armed conflicts. This leads to a significant question—whether sanctions are more effective for one or the other general purpose. Here, we are particularly interested in the impact on armed conflicts.

Conflict Transformation. Why Not a People’s Centered Approach

There is a lot sub-Sahara Africa can learn in terms of how conflict could be managed for positive conflict transformation and silencing the guns in Africa. So much effort has been made in tackling and resolving conflicts from a diplomatic perspective which has to do with looking up to governments, often times dictatorial regimes, and international organizations for actions. However, this takes a longer period depending on their diplomatic interest, as a helpless population waits for solutions and sanctions while many get killed in the course of war. There is always something to learn from history and from other countries that have been in similar situations. Countries such as Yemen, Morocco, Tajikistan, Denmark, Egypt and Kenya have used conflict transformation models (Dialogue, Mediation space and Diapraxis, Culturally-Balanced-Co-mediation, Ombudsperson, Early Warning and Rapid Response Mechanisms) that enabled them come out of conflict successfully while prohibiting the circulation of arms within their communities.

Method: Mediation and Diapraxis

The notion of a mediation space does not conceive of mediation in the classical sense of negotiations supported by an acceptable third party. Rather it is a process involving the creation of social spaces between divided groups, as opposed to a process lodged in the work of an individual or small team (Owen and Lakhdar, 2013, 6). It can be understood as the interaction between two (or more) discourses as they confront each other and seek to coordinate their actions in a non-violent way. The concept of “diapraxis” complements the mediation space approach. Diapraxis is process whereby joint action between conflict actors is made a key goal of a dialogue or negotiation process, rather than only a dialogue aiming at understanding the other side, or talking for the sake of talking.

When and how to employ the approach

Why employ the concept of a space? In a track-1 negotiation process there is no guarantee that decisions will translate down to the community level which is the level where people have the power to implement things. A mediation space aims bring together the people who have implementation power. This includes insiders from all sides who are connected to the issue, who have constituencies, who the interpreters of the founding discourse of their constituencies and constituencies with legitimacy support for whatever they have signed up to. It requires people who are willing to imagine a new future and who are willing to learn and get involved in the process. The concept is particularly helpful when working in contexts where parties hold different

worldviews because in such situation's discussions can be difficult and may require an approach different from a classical negotiation process

How the approach is different to a normal dialogue process?

Dialogue is meeting the other to understand the other but it does not necessarily bring the parties further. It hopefully leads to confidence building but this is not always the case, especially when parties have different worldviews. When dialogue does not result in a change in actions it can actually deepen mistrust because things are not changing or things are misinterpreted. Talk is often not enough. Action is important. Parties may need to see the other side act in a way that builds trust. In order to find an outlet for action it is important to create something practical together that seeks to address an aspect of the conflict. Such practical ideas should come out of a dialogue between the parties rather than being imposed by one party or coming from the outside.

Setting Up the Process

Define a space where interaction can take place. Participants need to feel it is a safe place for discussion so some “red lines” need to be established. These are lines everyone agrees they do not want to cross the discussion. To do this some sense of a basic common vision is needed but it does not require reaching agreement on doctrine or a worldview. A common vision can be as simple as “at some point we are going to have to live together”. Red lines are defined according to the context and according to the participants. They are not imposed but need to be agreed to by all participating parties. In such a process in Sri Lanka, for example, it was agreed nothing would be said against the Dharma (the teachings of Buddha), nothing against the government of Sri Lanka, and nothing that could antagonize the communities involved in the conflict. Agreeing the red lines is itself part of the process of discussion and can take time. As discussions progress to the practical, participants themselves start obtaining the thinking and the methodology of mediators. They start to think how to create new spaces and new roles. Discussion is mostly not about positions or interests. It focuses on practical ways forward. The hope is that participants begin to develop practical projects that deal with sensitive issues that are relevant to the transformation of conflict.

Case Study: TAJIKISTAN

Between 1992 and 1997 Tajikistan experienced a very bloody civil war. Following the conflict, one of the perpetuating divisions in the country was between secularist forces (neo-communist, nearly all anti-religious) and Islamic forces a loose term for a wide variety of actors) who were allied to democratic forces. There was and still is today, huge mistrust between the two sides. During the civil war, the Islamic forces almost got the upper hand until the conflict was frozen and secular forces gradually gained in influence. The Secularists, who dominated the government, were afraid that the Islamic forces would use the mosques to preach and incite an uprising against the government. There was heavy repression of Islamic actors and spaces.

The Process

German researchers at the Center for OSCE Research launched a dialogue process bringing together secular and Islamic actors. Out of this a document was drafted proposing areas for possible confidence-building measures which was sent the president of the republic. However, the document remained quite conceptual and abstract. The process was failing to build confidence and translate into practice so attention shifted to concrete projects, in order to build confidence. Working groups linked to the dialogue process were established which aimed to create new realities through projects. These working groups became mediation spaces where representatives

from secular groups, from the government, and from religious groups came together to discuss concrete issues.

Lessons learned

- Focus on practical co-operation not value differences
Debates about values or worldviews tended to divide the participants whereas a focus on confidence-building through practical co-operation on concrete issues helped to build confidence and common ground.
- Ideas for co-operation should be developed jointly
For there to be ownership and commitment to pursue them, ideas for joint practical co-operation between the parties need to be jointly formulated and developed together, rather than imposed from outside.
- Jointly agreeing red step in a dialogue
A mediation space requires the parties to agree the parameters for a dialogue. In defining parameters, it is often easier to find agreement on “red-lines”, i.e. things that should not be said or done rather than trying to formulate joint positive or aspiration guidelines.

Conclusion

The method which is one of a wide variety of contexts, approaches and experiences of conflict transformation allows us to reflect on more ways in which we can create mitigating effects during a conflict with the possibility of dropping arms and creating peaceful communities. Conflict transformation aims to enable relationships of respect, cooperation and consent, and constructive means and norms for dealing with conflict. John Paul Lederach, who is both a scholar and practitioner, explains that he wanted to develop “constructive change” in order to describe constructive responses to violent conflict, and the terms resolution or management did not fit as well as transformation did. Furthermore, (Lederach 1996) argues that peacebuilding is a long and comprehensive process that must include cultural differences and include all levels of society, also the middle range leaders (defined as the ethnic religious leaders, academics and leaders of influential NGOs) because they connect the top (highest leaders of the government and the opposition) and bottom level actors (grassroots’ organizations involved at the community level) and can connect the opposing sides of the conflict(s). Also, it is respected middle range leaders that are important, because their strengths are not based on political or military power, but rather more on relationships. Understanding the key leaders and how they work is valuable.

For Albert (2008, 32), this will mean that determining the result of social change and emergent conflict is a combination of societal capacity and conflict triggers. If society has the capacity to manage the conflict, then a situation of cooperation amidst latent tension can arise and, if societal capacity is greater and conflict management can lead to conflict transformation, then an environment of peace is possible.

Achieving conflict transformation will mean working towards empowering men and women for change and reforming structures of power in favor of justice for all. Important components of this term is using a people-centered approach, as well as working on different levels – from global awareness, to lobby and advocacy, to grassroots’ movements. The editors of the book, *Acting Together* describe the transformation of conflict as: “working for greater social and economic justice by addressing oppressive dynamics, amplifying the voices of those in less powerful groups, and building coalitions for change. It includes nurturing relationships of respect, understanding, and trust across differences in culture, ethnicity, gender, age, economic class, sexuality, and national identities. In addition to transforming relationships, laws and policies must be changed so that a society’s institutions and cultural symbols are inclusive and supportive of the development of all groups.”

References

- Albert, O. Isaac. 2008. "Understanding Peace in Africa." *Peace and Conflict in Africa*, pp 31, 32 &43. London and New York: Zed Books.
- Ahere, J. and Ouko, M.O. 2012. "Information communication technology in combat of small arms and light weapons." *Horn of Africa Bulletin* 24(1): 10–14.
- Ajayi, R. and Oshewolo, S. 2013. "Ghaddafi and the African Union: The end of an era?" In: Muchie, M., Lukhele-Olorunju, P. and Akpor, O. eds. *The African Union ten years after: Solving African problems with Pan-Africanism and the African Renaissance*. Pretoria, Africa Institute of South Africa. pp. 3–16.
- Bakken, Ingrid and Rustad, Siri. 2018. "Conflict Trends in Africa, 1989-2017." "Peace Research Institute Oslo. www.prio.org/Conflicttrends.
- Balcells, Laia, and Stath's N. Kalyvas. 2014. "Does Warfare Matter? Severity, Duration and Outcomes of Civil Wars." *Journal of Conflict Resolution* 58(8):1390-418.
- Bowd, Richard, and Barbara, Annie. 2010. *Understanding Africa's Contemporary Conflicts; Origins, Challenges and Peacebuilding*. Institute for Security Studies.
- Bowd, Richard. 2010. "Analyzing causes of Conflict, Conflict Resolution and Peacebuilding in Africa." *Understanding Africa's Contemporary Conflicts; Origins, Challenges and Peacebuilding*. Institute for Security Studies.
- Cameroon: Northwest and Southwest Situation Report, No.8, 30th June 2018. OCHA. www.unocha.org.
- Cohen, C.E., R.G. Varea, P.O. Walker (eds). 2011. "Acting Together", in *Performance and the Creative Transformation of Conflict*. Oakland: New Village Press.
- Downes, Alexander. 2008. *Targeting Civilians in War*. Ithaca, NY: Cornell University Press.
- Enuka, C. 2012. "Small arms proliferation and armed conflicts in Africa: The case of Rwandan conflict." *Khazar Journal of Humanities and Social Sciences* 15(4): 21–33.
- Eriksson, Mikael and Wallenstein, Peter. 2015. "Targeting Sanctions and ending armed conflict; first steps towards a new research agenda." *International Affairs* 91:6, 2015. The Royal Institute of International Affairs, 1389-1391.
- Francis, David. 2008. *Peace and Conflict in Africa*. London and New York: Zed Books.
- Francis, David. 2008. "Understanding the Context of Peace and Conflicts in Africa". In *Peace and Conflict in Africa*. London and New York: Zed Books.
- Fisher, S., Abdi, D.I. et al. 2000. *Working with Conflict: Skills and Strategies for Action*. London: Zed Books.
- Frazer, Owen and Ghetas, Lakhdar. 2013. *Conflict Transformation in Practice*. Pp 6, 17-19. Center for Security Studies.
- Krcmaric, Daniel. 2018. "Varieties of Civil War and Mass Killings: Reassessing the Relationship between Guerilla Warfare and Civilian Victimization." *Journal of Peace Research* 55(1):1831.
- Lederach, J.P. 1996. *Preparing for Peace: Conflict Transformation Across Cultures*. New York: Syracuse University Press.
- Lederach, J.P. 1997. *Building Peace: Sustainable Reconciliation in Divided Societies*. Washington D.C.: United States of Peace Press.
- Ngomba-Roth, R. 2008. *The challenges of conflict resolution in Africa*. Berlin, Lit Verlag.
- Nshimbi, Chris. "Why the African Union has failed to 'silence the guns'. And some solutions." *The Conversation*. <https://theconversation.com/why-the-african-union-has-failed-to-silence-the-guns-and-some-solutions-139567>.
- Opongo, E.O. 2013. "The African Union and a liberal peace agenda to conflict." In: Murithi, T. ed. *Handbook of Africa's international relations*, pp. 94–102. London, Routledge.
- Oxfam Novib Policy Paper 2012: "Achieving Conflict Transformation." 13-14.
- Ross-Larson, B.C. 2004. *Assessing regional integration in Africa* (1). United Nations Economic Commission for Africa. Addis Ababa, United Nations Economic Commission for Africa.
- Silencing the Guns, Owning the Future: Realizing a Conflict-free Africa. A Report on the proceeding of the fifth African Union high-level retreat on the promotion of peace, security and stability in Africa, held from 21 to 23 October 2014 in Arusha, Tanzania.
- Sullivan, Patricia and Karreth, Johannes. 2019. "Strategies and Tactics in Armed Conflict; How Governments and Foreign Interveners Respond to Insurgent Threats." *Journal of Conflict Resolution* 63(9): 2219-2220. Sage Publication.
- Valentino Benjamin, Paul, Huth, and Dylan Bach-Lindsay. 2004. "Draining the Sea: Mass Killing and Guerilla Warfare." *International Organization* 58 (2): 375-407.

The Congency of Social Mindset

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ABSTRACT: The social milieu of individuals, the corresponding communities had constantly entailed the core traits of a society that functioned in each cycle according to the specificities of the interval, thus creating or recreating identities within the framework of a reality that made an impression on each phase of evolution in point of mindset, conduct and compliant attitudes. The act of communication traversed national borders and might conduct toward a status rebounding as it had considerably widened the diversity of techniques but at the same time implied a segregative characteristic in point of the character of information and culture. Notwithstanding the corresponding consensual promises, communication continued to, operate with nuances, techniques or broad senses, hence being in most of the instants been associated with the concept of global evolution.

KEYWORDS: society, mindset, persuasion, communication

“The belief as regards the ignorance and contempt of human rights have led to acts of barbarism that revolted the consciousness of mankind and the fact according to which the creation of a world would allow people to benefit of the freedom of speech and credence has been proclaimed as the highest aspiration of the human being” (The Universal Charter of Human Rights). “Every individual is entitled to the right to an opinion and expression, the right of not being judged in respect of personal beliefs and the right to receive and diffuse information and ideas regardless frontiers via whichever means of expression” (Article 19).

The issue of the domain of information has encompassed along the time particular difficulties as respects the comprehension of the corresponding content, the information, thus, has been presented in the form of conspicuous associations, actual data, the relation between individuals and informational systems or as the general characteristic in respect of the evolution of societies.

The argument for the continually increased interest with regard to the notion of communication might be related to the aspect of newness, a concept that has been taken into consideration around the middle of the XXth century due partly to the “technological progression” at an alert pace/rate. Numerous scholars-historians and researchers of genealogies- have established anterior theoretical affiliations, still the genuine dynamics of communication is to be placed in recent times.(Miége 2008, 13).

An aspect is essential to be emphasized, namely whether the issue of communication de facto holds or comprises the attributes that in various situations are bestowed. There have been views to consider the above-mentioned concept as either embeds the virtues of modernity or, on the contrary, appears to be criticized for the manipulative prospects that are conferred with respect to the individuals that have the ability to control and operate when in possession of it. Therefore, one concrete facet in point of the accepted perspective is acknowledged, that is communication is in power to overcome national or state borders and identity differences and to give rise to the opportunity of new horizons. In order to trust the means of communication there has to be accepted the fact according to which the exchanges that are facilitated or accelerated avert the existing frontiers, an enshrined reality for the leaders of the authoritarianist political regimes the intention of whom is to unbated control, though with no chances of success, the communication techniques. The pattern of “global village” has the prerequisites to prevail, attainment that determines, at least in Europe, to

waver a historical heritage based on recoil and secular oppositions, whilst the urban society has the appearance of “one complex division” (Manzanilla 1987).

In the contemporary world the processes of unification, assimilation and differentiation occur at an unprecedented velocity or brisk pace, one of the causes being attributed to the cultural dynamics that has been triggered by the globalization of the information society. Still, the virtual or cyber images have not yet substituted the genuine ones and neither the high-rate popularity networks would determine in the following years toward the emergence of a ubiquity social milieu by means of which the individuals to be conferred the opportunity of being able to connect to various persons in real time. The present society disposes of a wide range of theories that is different in terms of array and multitude compared with two decades ago. The process of communication represents a source of exchange with the subjects that find themselves in a position of assumption or pursuit particular forms of influence within and after the moment of the social intercourse act.

The impact or influence in respect of the current/broad understanding articulates the sense of an efficient means of action directed towards a person but, at the same time, encompasses a particular way of communicating that has as main source the persuasion. The sociologist T. Parsons (1967), one of the most influential figures of the XXth century in the domain of specialization demonstrated that persuasion had to be comprehended as being the ability to convince by means of positive premises so as to lead to compliance with the suggestions of the individual that intends to deliver a specific message/discursive intention-the influencer. A different perspective has been asserted by the scholar M. Vlasceanu , in other terms, social influence might be identified as the action exerted by an entity that is aimed at the modification /alteration of the options and conduct in point of another individual, being associated with the sphere of power and social control relations yet different in the fact that does not resort to constraint (1998), whilst R. Boudon and F. Bourricaud (1982) agreed on considering the above mentioned issue as “a specific/distinct pattern of power with principal resource the persuasion” (Vlasceanu 1998, 423).

The attitudes of individuals stem from the items of information one possesses in relation to objects or persons that are possible to result from interactions, characters of alliance or media. Therefore, the degree of influence is reduced with regards to the impact to be exerted on the subjects by diverse socializing agents or initial/primary groups within the framework of which the integration is involved. As an outcome, the nature of a human being alters the selection of information to the same extent that the information influences the conduct, whilst the perception in point of items, data and surrounding characters is influenced by the order in which the specific traits are to be noticed.

As a corollary, persuasion might be referred to as the modification of mindset and comportment by means of exposure to a message, a specific line of thought, thus offering the individual particular insights with the purpose of creating impressions in order to weaken or strengthen a tendency that already exists. There is essential to be emphasized the fact according to which unlike constraint, persuasion acknowledges the freedom of individual. The rapport mass-media -society has been illustrated in the description of Nicholas Graham (quoted in Miége, 59) as follows: “Once we see the media in this way it becomes obvious that questions about the media are questions about the kind of society we live in and vice versa. The study of media is thus a part of, and must be grounded in, the human sciences more generally. We study them because they give us a way into the general questions of social theory. The questions we ask about the media and the answers we might give to those questions can only be understood within the context of social theory more generally”.

Provided that communication cannot be isolated from the social global environment that Pierre Bourdieu defined as the domain of powerful trends and conflicts, then a theory of action is not the product of a global awareness: “...the majority of the human acts have as principle not the intention but the acquired states that determine the action to be directed

toward a definite objective without being able to assess the fact according to which its tenet has been the conscious vising of the intended aim” (Bordieu *Raisons pratiques sur la théorie de l'action* (*The practical motives as regards the theory of action*) 1994, 183-184, quoted in Miège, 58).

In most cases, the surveys denote that the techniques of information and communication are related to social changes and, in particular situations, determine the acceleration in point of the latter, but hardly cause them. Hence, the understanding of the subtle relations with respect to the emergence of new techniques and society has the characteristic of an ineluctable exigency. One constant is agreed on, namely the information society might be considered as the community within the framework of which the discourse methods have become dominant and represent a new means to generate values as, less often, the information paradigm of a society has extended at the level of overall social activities. The semantic oscillations are not fortuitous, representing the precariousness to specify from a theoretical perspective the novel era that is to be displayed as the present perspective. The verity does not impede the analysts of the new society to accord with an essential point as regards the certitude that the industrial society has been surpassed due to a radical structural transition in terms of education assets and development of information competences or virtual culture. At this juncture, the analysis of the sociologist Manuel Castells has brought to the fore assertions in relation to the positive aspect of the use of multimedia means as the “construction of different new symbolic mechanisms with the definite purpose to transform the virtuality into a reality”, or: “The novel system of communication radically transforms the space and time as fundamental dimensions of human experience. The sites entail the characteristic of being deprived of the cultural, historical, geographical significance to be integrated within functional networks, thus producing a space/area of influxes that is substituted to the void of locuses” (Castells 1998-1999. *L'Ère de l'information*, 420, quoted in Miège, 59).

The areal that has been depicted in the above lines has the attribute to concentrate both the control along with the social functions while the network society is characterized by the pre-eminence of social morphology over social action, yet the critical writings of Franck Webster assess another angle to consider the issue, therefore: “There can be no doubt that, in advanced nations, information and communication are now pervasive and that information has grown in economic significance, as the substance of much work, and in amounts of symbolic output. But the idea that all such might signal the shift toward a new society, an information society, is mistaken. Indeed, what is most striking are the continuities of the present age with previous social and economic arrangements, informational developments being heavily influenced by familiar constraints and priorities” (Webster 2000, *The Information Society Revisited*”, in L.A. Lievrouw, S.M. Livingstone, *The Handbook of New Media: Social Shaping and Consequences of ICTs*, quoted in Miège, 65).

The assumptions as regards the current society indicate that even if there are difficult instants to cope with the massive number of arguments that are assumed as being evident the actual transformations must be submissively observed. Regardless the importance that one might consider in point of certain information and technological adjustments is not sufficient to be perceived as the indicatives of the novel era, line of thought expressed by the theoretician Bernard Miège the focus of interest of whom has been the media along with its adjacent phenomena and salient features.

The dictionary of social studies (Zamfir & Vlăsceanu 1993) defines persuasion as being the activity to influence the attitudes and conduct of particular individuals in the direction of occurrence of the modifications that are concordant with the aims or interests of the initiator agent (persons, group, institution, political, social, cultural institution). Persuasion is accomplished provided that the attributes of responsiveness and reactivity of the influenced persons are taken into consideration. The concept involves an act of conviction opposed to imposition or coercion of an option in a manner that to lead to self-acceptance in point of the

expected change. Thus, the explanation induces the idea that the concept under consideration represents an intentional form of influencing wherein the arguments are selected in a specific manner allowing the change pursued by the agent to be longed and adopted by the receptor in the absence of constraint.

The outcome is dependent on both the individual's own factors but also the ones as regards the mode of organizing the influences. The former category is synthesized as the specific tendency of being receptive with respect to influences and to accept transformations in point of attitudes and demeanor. The latter class is centered around the process of communication, accordingly on the relations among source, message, transmission channel, receptiveness and social context that confer it the persuasive character. The valid motives for an action ought to be delivered to the receptor by means of an adequate environment, irrespective of an interpersonal communication or the type of speaker- audience is envisaged. The dissemination to be adequately understood needs to be analyzed along with concepts, images, symbols, arguments and reasons, being a privileged source as regards the access to reality and a less or more discrete form of manipulation the masses.

The act of communication by way of influence has been the focus of interest of the scholar Alex Mucchielli that introduced a new perspective in respect of the relations among influence, persuasion, and manipulation on one side and communication, on the other. According to his principles, to communicate and to influence form the same action (Mucchielli 2002, 191).

The attaining of a positive behavioral response from the surrounding attendance that is intended to be influenced by means of communication does not rely on the presumed force or strength of the word and the particularities of the message emitter – logos and ethos. The situation of the process of influence, the corresponding elements along with the modalities by means of which the emitter redefines these components is essential to be analyzed. Therefore, to influence implies a sense that determines the interlocutors or communicators to act accordingly, whilst to communicate involves making use of a group of communication mechanisms, thus encompassing an overall of specificities.

The current reality of present times belongs to a world of interrelations and dependencies where the syntagm of social evolution does not lack ambiguities. As an outcome, society encompasses a multitude of facets and particularities, a range of spiritual elements among which education and the freedom of speech (Rotaru 2019, 201-215) or expression represent an area of expertise to be continually added influences, directions of progression along with the perspective that a social milieu ought not to be deprived by its privileged position.

References

- Balaban, Delia Cristina, and Hosu, Ioan. 2009. *PR Trend Societate și Comunicare (Public Relations trend Society and communication)*. Bucharest: Tritonic.
- Kertzer, David I. 2002. *Ritual, Politică și Putere (Ritual, Politics and Power)*. Bucharest: Univers.
- Manzanilla, Linda. 1987. *The beginnings of urban society and the formation of the state: Temple and Palace as basic indicators in "Studies in the Neolithic and Urban Revolution"*, BAR, International Series.
- Miége, Bernard. 2008. *Informație și comunicare-În căutarea logicii sociale (Information and communication – on the lookout for social logic)*. Trad. Adrian Staii). Iasi: Polirom.
- Mucchielli, A. 2002. *Arta de a influența (The artistry of influencing)*. Iași: Polirom.
- Petcu, Marian. 2002. *Sociologia mass-media (The sociology of mass-media)*. Cluj-Napoca: Dacia.
- Psihologia socială - Buletinul Laboratorului "Psihologia câmpului social" (The social psychology – The Bulletin of the "Psychology as regards the social domain)*. 2007. Bucharest: Polirom, Nr. 18/2006.
- Rieffel, Rémy. 2008. *Sociologia Mass-media (The sociology of mass-media)*. Iași: Polirom.
- Rotaru, Ioan-Gheorghe. 2019. *Om-Demnitare-Libertate (Man-Dignity-Freedom)*. Cluj-Napoca: Risoprint Publishing House.
- Stănciugelu, Irina. 2009. *Măștile comunicării – de la etică la manipulare și înapoi (The facets of communication – from ethics to manipulation and reverse)*. Bucharest: Triton.

- The Main International Instruments of the Human Rights with Romania as a part*, Ist Volume-Universal instruments. 1997. Bucharest: The Romanian Institute for the Human Rights.
- Vlăsceanu, M. 1998. "Persuasiunea" ("Persuasion"). In *Dicționar de Sociologie (The dictionary of Sociology)*. C.Zamfir, L. Vlăsceanu (coord.). Bucharest: Babel.
- Zamfir, C., Vlăsceanu, L. 1993. *Dicționar de sociologie (Dictionary of social studies)*. Bucharest: Babel.
- Zamfir, Cătălin, Stoica, Laura. 2006. *O nouă provocare: Dezvoltarea socială (A new challenge: Social development)*. Iași: Polirom.

A Study of Generation Y Thai Consumers’ Knowledge, Attitude and Behavior Related to Plastic Pollution

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ABSTRACT: The use of plastic, in many forms, is ubiquitous. Plastic is found in many of our day-to-day products and even though plastic has several useful applications, plastic waste has a detrimental impact on the environment and is life-threatening to humans, animals, and many marine species. The main aim of this exploratory study is to investigate the influence of internal (environmental knowledge and concern), and external factors (interpersonal influence and media) on Gen Y Thai consumers’ environmental attitude and behavior relating to plastic pollution. Gen Y consumers are the focus of this study because they account for nearly a third of Thailand’s population with high income and spending potential. A total of 550 questionnaires were distributed to Gen Y consumers in 7 areas in the Central Business District of Bangkok, of which 396 were considered valid and used for the analysis. Three hypotheses posited in the study were tested using Simple Regression analysis. The findings showed that both external factors (environmental knowledge and environmental concern) as well as internal factors (interpersonal influence and media) influenced environmental attitude. Environment attitude, in turn, was found to have a significant influence on behavior related to plastic pollution. The findings provide several useful suggestions for policymakers, marketers, and the general public toward inculcating better waste management practices in the Thai context.

KEYWORDS: Plastic pollution, Generation Y, Environmental Concern, Interpersonal Influence

Introduction

Plastic waste, also called plastic pollution, consists of the remnants of plastic objects, such as, bottles, bags, caps, straws, microbeads, etc., that enter the earth’s environment and create problems for wildlife, marine, as well as human populations (Moore 2020). Plastic pollution is ubiquitous in Asia, and as per a UNEP report in 2018, half the world’s plastic is produced in Asia with approximately 40 percent consumed in the Asia Pacific region. Because plastic is a relatively inexpensive and durable material, over 300 million tons are produced annually for use in a variety of applications. Of this, at least 8 million tons end up in the ocean every year (IUCN 2021). It has been widely reported that marine species often mistake plastic waste for food, ingesting it, or are entangled by plastic debris causing suffocation and death. In fact, MacArthur (2016) claimed that the situation was so dire that there would be more plastic than fish in the ocean by 2050 unless governments and industry took steps to mitigate the problem.

Plastic waste in the Thai context

As per a report published in 2015 by the McKinsey Centre for Business and Environment, Thailand is the 6th worst offender for dumping plastic into the sea. Leung (2018) reported that five Asian countries, China, Indonesia, Philippines, Thailand and Vietnam dump more plastic into the ocean than all other countries combined. The Department of Pollution Control reported that each year, Thailand generates almost 2 million tons of plastic waste, which are mostly single-use polyethylene bags, out of which just 25 percent are recycled (Bangkok Post 2020). Of this, approximately 20 percent is generated in Bangkok, Thailand’s largest city with a population of approximately 15 million. With the situation becoming increasingly alarming, the Thai government in 2020, banned single-use plastic bags in department stores and retailers nationwide.

Disposal of plastic waste was already a major problem in the past, nevertheless, it has been compounded by the effects of the pandemic. Lockdowns and social distancing have created an increase in plastic waste as food is packaged for delivery in bags, containers, disposable forks, spoons, chopsticks, beverage cups and condiments, all of which make use of plastic. The global health crises has also increased the use of facemasks, gloves and hand sanitizer bottles, some of which have washed up on beaches, even on remote islands (Cottier 2021).

Why study Generation Y?

Generation Y is the group of people born between 1980 and 1994 and is also known as Millennials or Eco Boomers. They are the world's largest demographic group, made up of approximately 60 million individuals, with developing countries having a higher population of Gen Y than developed countries. Thai Gen Y consumers make up 32 percent of the population of 68 million people. Thus far, there have been studies relating to waste management, household waste separation, reducing plastic bags, etc. (Ittiravivongs 2012; Hohmann *et al.* 2016; Wichai-utcha and Chavalparit 2018; Vassanadumrongdee and Kittipongvises 2017) in the Thai context, however, no studies have focused specifically on Gen Y's knowledge, attitude and behavior related to plastic pollution. It is critical to examine this generation as it is estimated that by 2050, half of Thailand's working population will be Gen Y, which will also be Thailand's largest consumer group (Wangkiat 2016).

Literature Review

The determinants of responsible environmental behavior often include factors considered to be internal to individuals (e.g., knowledge, values, personal norms, beliefs, attitudes) and external forces—contextual, structural or social factors. In the current study, environmental knowledge and concern are considered to be internal factors, and interpersonal influence and social media are external factors.

Internal Factors: Knowledge about environmental issues is considered a pre-condition to environmental behavior. Knowledge, in general, is inadequate, people need to know in clear terms about the kind and impacts of environmental threats. Therefore, the transmission of knowledge via educational programs has far-reaching, practical consequences. Mobley, Vagias and DeWard (2009), citing the role of education in the formulation of knowledge, attitude and behavior, argued that the level of education is correlated with both environmental knowledge as well as positive environmental attitude. Environmental concern has been defined as “the degree to which people are aware of problems relating to the environment and support efforts to solve them and/or indicate the willingness to contribute personally to their solutions” (Dunlap and Jones 2002, 485). A Glocalities survey conducted on 189,996 respondents between 2014-2019 revealed that citizens worldwide were increasingly concerned about the reckless exploitation and pollution of the planet (Glocalities 2019).

Based on the above, the following two hypotheses are posited:

H_{1.1}: There is a significant influence of knowledge of plastic waste on attitude toward plastic pollution

H_{1.2}: There is a significant influence of environmental concern on attitude toward plastic pollution

External Factors:

Previous research has shown a positive relationship between interpersonal influence and ecological behavior. Social learning theory purports that human thoughts, emotions and behavior are the result of both direct experience as well as indirect observation of other people's behavior (Bandura 1977). Sadachar et al. (2016) showed that interpersonal influence

was a significant indicator of green consumption among American youth. Nixon and Saphores (2009) confirmed that consumers who had received three recycling messages from family and friends, work/school were more likely to demonstrate such behavior and this method of information dissemination was the most effective medium to get people to start recycling. Social media's impact on attitude and purchasing behavior has been studied by several authors. Social media offers a more interactive buying experience and is seen as more useful and trustworthy by consumers. Li, Lee and Lien (2012) found that messages on social media increase consumers' willingness to buy, while interactions on social media directly influence purchasing decisions by increasing conformity with peers. Social conformity is stronger in collectivist societies, as Triandis, McCuskar and Hui (1990) reported that for collectivists, messages from certain in-groups such as the tribe, the work group, the family or the nation encourages conformity and is a significant motivation to purchase products/services, especially among young people.

Thus:

H_{2.1}: There is a significant influence of interpersonal influence on attitude toward plastic pollution

H_{2.2}: There is a significant influence of social media on attitude toward plastic pollution

Attitude – Behavior linkage

Environmental attitude has been considered a strong predictor of pro-environmental behavior. Previous research has evidenced that an individual's attitude toward environmental problems enables the willingness to engage in responsible environmental behavior and decrease irresponsible human practices toward nature (Kollmuss and Agyeman 2002). Nevertheless, researchers have also found gaps between the attitude-behavior relationship and have attempted to understand which factors directly impact pro-environmental behavior (Kollmuss and Agyeman 2002; Rodriguez-Barreiro et al. (2013).

Thus, the final hypothesis of the study is proposed:

H₃: There is a significant influence of attitude on behavior related to plastic pollution

Based on the literature reviewed in previous sections, the study proposes a research framework as shown in Figure 1 below:

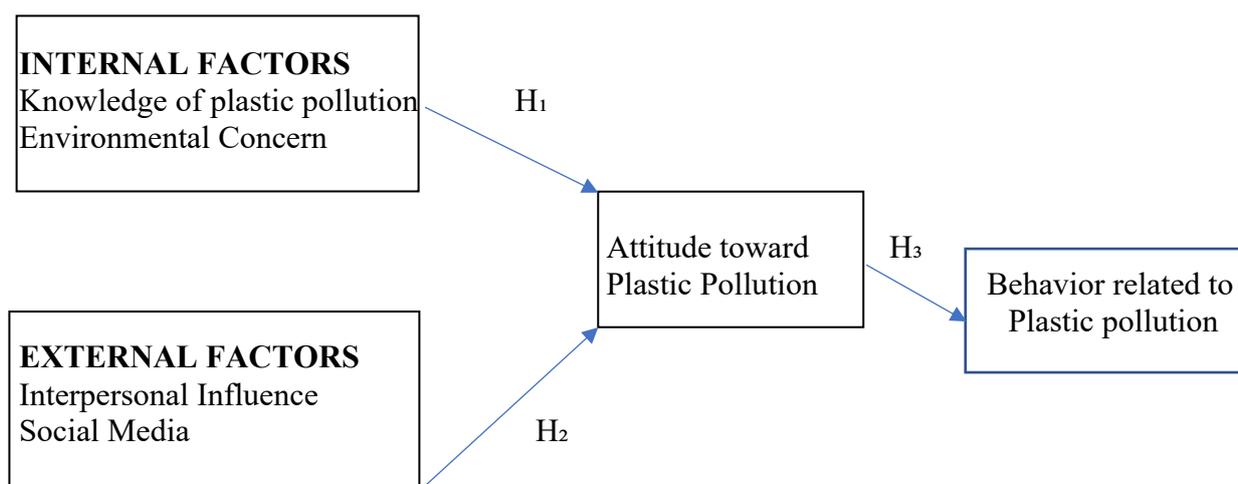


Figure 1. Research Framework

Research Methods

The target population of this research is Thai consumers, both male and female, born between 1981–2000. A total of seven Central Business Districts in Bangkok was used for data

collection as these areas housed many large local and multinational businesses in which many Gen Y consumers were employed. A self-administered questionnaire comprising four sections was used. All items were measured on a five-point Likert scale ranging from 1= strongly disagree to 5= strongly agree. The questionnaire also included general demographic questions such as gender, education and income. Data collection was conducted between October–December 2020.

Findings

Table 1. Response Rate

Number of distributed questionnaires	Number of completed questionnaires received	Percentage of responses
550	396	72

As table 1 shows, a total of 550 questionnaires were distributed; of this number 154 were rejected because of non-response, bringing the total of usable questionnaires to 396 with a response rate of approximately 72%.

The demographic profile of the respondents is shown in Table 2, descriptive statistics in Table 3, and the hypotheses test results in Table 4 below.

Table 2. Demographic characteristics of sample

Classification	Variable	Percentage
Gender	Male	51.6
	Female	48.4
Earnings per month	Lower than 10,000 Baht	15.1
	10,000 – 20,000 Baht	29.2
	20,001 – 30,000 Baht	21.6
	30,001 – 40,000 Baht	15.3
	40,001 – 50,000 Baht	10.1
	More than 50,000 Baht	8.7
Highest level of education	High School or Below	5.1
	Diploma / Occupational Certificate	10.2
	Bachelor's Degree	51.4
	Master's Degree or Above	33.3

Table 3. Summary of Descriptive Statistics on Variables

No.	Variable Measured	Mean of Responses	Standard Deviation
1	Knowledge of plastic pollution	4.31	.567
2	Environmental Concern	3.78	.525
4	Interpersonal Influence	3.42	.486
5	Social Media	3.72	.531
6	Environmental Attitude	4.15	.536
7	Behavior related to plastic pollution	3.29	.502

Descriptive statistics were used to determine the mean responses for all the variables used in the study to analyze respondents' level of agreement or disagreement. The results show that Knowledge on plastic pollution obtained the highest mean (4.31) (Strongly Agree)

followed by Environmental Attitude (4.15) (Agree). The lowest mean score was Behavior related to Plastic Pollution (3.29) which fell in the Neutral level.

Table 4. Hypotheses test results

Hypothesized relationship	R	R ²	F	Unstandardized Coefficients (B)	Standardized Coefficients (β)	t-value	Results
H ₁ Internal Factors Attitude							
H _{a1.1} Knowledge on plastic pollution, Attitude toward plastic pollution	.417	.172	81.626	.392	.415	9.035	Supported***
H _{a1.2} Environmental Concern, Attitude toward plastic pollution	.201	.041	16.710	.206	.202	4.088	Supported***
H ₂ External Factors, Attitude							
H _{a2.1} Interpersonal Influence, Attitude toward plastic pollution	.175	.031	12.424	.193	.175	3.525	Supported***
H _{a2.2} Social Media, Attitude toward plastic pollution	.407	.164	76.801	.409	.405	8.764	Supported***
H ₃ Attitude toward plastic pollution and Behavior related to plastic pollution	.111	.013	5.004	.105	.112	2.237	Supported*

Remarks: Significant at * $p < .05$, ** $p < .01$, *** $p < .001$

Internal factors which were hypothesized as H_{a1.1}, and H_{a1.2}, were tested by simple regression analysis. The findings showed the significant influences of knowledge of plastic pollution on attitude ($\beta = .417$; $p < .001$), environmental concern on attitude toward plastic pollution ($\beta = .201$; $p < .001$). Hence, the findings support H_{1.1}, and H_{1.2}. The hypothesized influence of external factors on attitude was also tested by simple regression analysis. The findings revealed the significant influences of interpersonal influence on attitude toward plastic pollution ($\beta = .175$; $p < .001$), and social media on attitude toward plastic pollution ($\beta = .407$; $p < .001$), providing support for H_{2.1} and H_{2.2}. Lastly, the significant influence of attitude toward plastic pollution on behavior related to plastic pollution was tested by simple regression analysis ($\beta = .111$; $p < .05$), providing support for H₃.

Discussion and Conclusion

The findings demonstrate that the respondents had adequate knowledge of the negative impacts of plastic pollution; in fact, the knowledge variable obtained the highest score (mean=4.11) in the current study. Seventy six percent of the respondents strongly agreed with the statement “Plastic waste has a negative impact on the environment” (mean=4.15). Respondents also demonstrated strong agreement with the statement “I am concerned about the impact of plastic waste on Thailand’s environment” (mean=4.08). There was a significant influence of both knowledge and concern for the environment with attitude toward plastic pollution. This showed that respondents were not just knowledgeable, they also wanted stronger measures from the government to mitigate the problems related to plastic waste as is evidenced by their support for the statements “I think Thailand needs stronger legislation to prevent the disposal of plastic in rivers and the sea” (mean=4.21), “I am glad that the Thai government banned plastic bags in department and convenience stores” (mean=4.12). In regard to external factors, the findings showed that the majority of respondents obtained their information on plastic pollution from the internet (68 percent). Information obtained from television and radio ranked much lower at 31, and 26 percent, respectively. Interpersonal influence on attitude has a strong relationship with behavior in

many Asian countries. In fact, in an earlier study by Arttachariya (2012), interpersonal influence was the strongest predictor of graduate students' green purchasing behavior. Lee (2009) also found that peer influence was the top predictor in her study of adolescents' green purchasing behavior in Hong Kong. Although the findings showed the significant influence between respondents' attitude and behavior regarding plastic pollution, descriptive statistics showed gaps in their willingness to take personal action to mitigate the problem. For instance, the statements: "I separate household waste before putting it in the bin (mean=2.31) and "I buy products packaged in materials that can be recycled (mean=2.44) fell in the neutral level of agreement. Recent reports have emerged about the increasing amount of discarded face masks which have leaked into the sea and affected aquatic animals. A total of 68 percent of the respondents showed strong agreement (mean=4.22) with the statement: "I throw away my used face marks along with other household waste in the garbage bin". The UNEP study conducted in 2020 in Indonesia, Philippines, Malaysia, Vietnam and Thailand, showed that although 91 percent of respondents were "extremely concerned" about plastic waste, more than half surveyed continued to use non-recyclable containers which was attributed to both cultural norms as well as the belief that recycled food packaging was unsafe for consumption.

The study's findings hold important implications. Knowledge regarding various types of plastics and their potential for recycling need to be taught to Thai students at a young age. Early teaching of the 3 R's (reduce, reuse, recycle) is critical, since the findings show that even though the respondents possessed adequate knowledge of plastic pollution and its consequences, their implementation behavior was limited. Research has shown that Thai Gen Y consumers use the internet for 8-10 hours a day, like to stay connected and post/share information on Facebook, Instagram and Lifelogs (Kittikrairat and Ogawa 2016). Online awareness of the negative effects of plastic pollution can be conveyed using celebrity reference groups such as actors, musicians and other popular personalities. McCarty and Shrum (1994) proposed that people place a stronger weight on interpersonal influence when they live in a collectivist rather than an individualist society. Hofstede (2001) classified Thailand as a collectivist society. This makes Thai consumers have a greater propensity to follow social norms and share values that could make for a safer and cleaner environment. Policymakers and the government can ameliorate the problems related to plastic waste by increasing financing to waste management projects, improving infrastructure like the number of bins on roads and more collection points, and encouraging proper separation of household waste and recycling. The recent Federation of Thai Industry's proposal to provide red bags to every household to enable the separation of plastic and other non bio-degradable items that pose a threat to the environment, is a step in the right direction. Given the collectivist nature of Thai people and their concern for Thailand's environment, cause-related PR campaigns with emotional slogans such as "Save our Motherland – say no to plastic" and "Make our Beloved Country a better place by being part of the say no to plastic waste" could also serve as a catalyst for behavioral change in better waste management practices.

Limitations and Future Studies

This exploratory study is only focused on Generation Y consumers. Convenience sampling was used to select respondents from the Central Business District in Bangkok only, hence the sample might not represent Thailand's Generation Y as a whole. Further studies should cover other cities in Thailand. In addition, online surveys may be an economic and safe alternative for researchers to reach customers in other geographic areas of Thailand. There are many other internal and external variables which have not been included in this study. These can be further examined for their influence on behavior related to plastic pollution. A qualitative research method is also suggested to gain in-depth information about Thai Gen Y consumers' and a deeper understanding of their reasoning and motivations. Finally, researchers may

conduct cross country studies in the Asean region so as to heighten awareness of other systems, cultures, and patterns of behavior related to plastic pollution.

References

- Arttachariya, P. 2012. "Environmentalism and green purchasing behavior: A study on graduate students in Bangkok, Thailand." *BU Academic Review* 11(2): 1-11.
- Bandura, A. J. 1977. *Social learning theory*. Englewood Cliffs, NJ: Prentice Hall.
- Bangkok Post. 2020. Editorial. "War on Plastic Falters." 4 June, p. 8.
- Cottier, C. 2021. "Pandemic Plastic is flooding the oceans." <https://www.discovermagazine.com/environment/pandemic-plastic-is-flooding-the-oceans>. Accessed 12 February 2021.
- Dunlap, R.E. and Jones, R. 2002. "Environmental Concern: Conceptual and Measurement Issues." In *Handbook of Environmental Sociology*, edited by Dunlap and Michelson, 482-542. London: Greenwood Press.
- Glocalities 2019. "Global Rise in Environmental Concern." Trend Report. Glocalities.com. <https://glocalities.com/latest/reports/environmental-concern>. Accessed 4 January 2021.
- Hilary N. and Saphores, J. D. 2009. "Information and the decision to recycle: results from a survey of US households." *Journal of Environmental Planning and Management* 52(2): 257-277.
- Hofstede, G. 2001. *Culture's Consequences: Comparing Values, Behaviours, Institutions and Organisations Across Nations*, Second Edition, Sage Publications.
- Hohmann, R. et al. 2016. "An exploration of the factors concerned with reducing the use of plastic carrier bags in Bangkok, Thailand." *ABAC ODI Journal: Vision. Action. Outcome* 3 (2): 162–181.
- IUCN 2021. "Marine Plastics". <https://www.iucn.org/resources/issues-briefs/marine-plastics>. Accessed March 2021.
- Ittiravivongs, A. 2012. "Recycling as Habitual Behaviour - The Impact of Habit on Household Waste Recycling Behaviour in Thailand." *Asian Social Science* 8 (6): 74-81.
- Kittikrairat, P., and Ogawa, T. 2016. "The Thai market to watch and their players: Generation Y- The driving force of consumption trends in Thailand." *Corporate Directions, Inc.* <http://www.cdiasiabusiness.com/en/library/detail.html?p=299>. Accessed 12 April 2021.
- Kollmuss, A., and Agyeman, J. 2002. "Mind the Gap: why do people act environmentally and what are the barriers to pro-environmental behavior." *Environmental Education Research* 8(3): 239-260.
- Leung, H. 2018. "Five Asian countries dump more plastic into oceans than anyone else combined: How you can help." *Forbes*. <https://www.forbes.com/sites/hannahleung/2018/04/21/five-asian-countries-dump-more-plastic-than-anyone-else-combined-how-you-can-help/?sh=78e38f9f1234>.
- Lee, K. 2009. "Gender differences in Hong Kong adolescent consumers' green purchasing behavior." *Journal of Consumer Marketing* 26(2): 87-96.
- Li, Y. M., Lee, Y. L., & Lien, N. J. 2012. "Online social advertising via influential endorsers." *International Journal of Electronic Commerce* 16(3): 119-154.
- MacArthur, E. 2016. "More plastic than fish in the sea by 2020." *The Guardian*. <https://www.theguardian.com/business/2016/jan/19/more-plastic-than-fish-in-the-sea-by-2050-warns-ellen-macarthur>. Accessed 16 February 2021.
- McCarty, J.A. and Shrum, L.G. 2001. "The influence of individualism, collectivism, and locus of control on environmental beliefs and behavior." *Journal of Public Policy & Marketing* 20 (1): 93-104.
- McKinsey Center for Business and Environment and Ocean Conservatory. 2015. "Stemming the Tide: Land-based strategies for a plastic-free ocean." <http://www.oceanconservatory.com>. Accessed 13 January 2021
- Mobley, C., Vagias, W.M., and DeWard, S.L. 2009. "Exploring Additional Determinants of Environmentally Responsible Behavior: The Influence of Environmental Literature and Environmental Attitudes." *Environment and Behavior* 42 (4): 420-447.
- Moore, C. "Plastic pollution." *Encyclopedia Britannica*, 15 Oct 2020. <https://www.britannica.com/science/plastic-pollution>. Accessed 23 May 2021.
- Rodríguez-Barreiro, L. M., Fernandez-Manzanal, M., Serra, L. M., Carrasquer, J., Murillo, M. B., Morales, M. J., Calvo, J. M., and del Valle, J. 2013. "Approach to a causal model between attitudes and environmental behavior. A graduate case study." *Journal of Cleaner Production* 48: 116–125.
- Sadachar, A., Feng, F., Karpova, E. and Manchiraju, S. 2016. "Predicting environmentally responsible apparel consumption behavior of future apparel industry professionals: The role of environmental apparel knowledge, environmentalism and materialism." *Journal of Global Fashion Marketing* 7 (2): 76-88.
- Triandis, H. C., McCuskar, C., & Hui, C. H. 1990. "Multi method problems of individualism and collectivism." *Journal of Personality and Social Psychology* 59 (5): 1006-20.

- UNEP Report 2018. “Single-use plastics: A roadmap for sustainability”. <https://www.unep.org/resources/report/single-use-plastics-roadmap-sustainability>. Accessed 20 January 2021.
- UNEP Report 2020. “Consumers and business concerned about plastic waste but expect governments to do more”. <https://www.unep.org/news-and-stories/press-release/report-consumers-and-business.concerned-about-plastic-waste-expect>. Accessed 14 March 2021
- Vassanadumrongdee, S., and Kittipongvises, S. 2017. “Factors influencing source separation intention and willingness to pay for improving waste management in Bangkok, Thailand.” *Sustainable Environment Research* 28(2): 90-99.
- Wichai-utcha, N., and Chavalparit, O. 2018. “3 Rs Policy and Plastic waste management in Thailand.” *Journal of Material Cycles and Waste Management* 21(6): 10-22.
- Wangkiat, P. 2016. “Generation Y Thailand: A new Me Generation?” *Bangkok Post*. <https://www.bangkokpost.com/learning/advanced/1038478/generation-y-thailand-a-new-me-generation>. Accessed 13 May 2021.

Legal Obligation of Maintenance Between Spouses and Former Spouses in the Romanian Law

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ABSTRACT: The legal maintenance obligation is the duty imposed under the law to a person to ensure to the other person the required subsistence means, both in material and spiritual terms. This paper comprises a theoretical and practical review of the maintenance obligation between the spouses and former spouses, following the dissolution of marriage. As it shall follow from our research, the maintenance obligation may materialize at all times during the marriage, including during the divorce trial, of course, subject to the observance of two conditions: the state of need of the maintenance creditor spouse and the material means of the maintenance debtor spouse. At the same time, at the end of the research, we shall find that the divorced spouse is entitled to maintenance if three conditions are met, i.e.: that they are in need, the need must be the consequence of the incapacity for work and that the incapacity occurred within one year as of the dissolution of marriage.

KEYWORDS: legal maintenance obligation, spouses, former spouses, state of need, material means

Regulation and notion

For starters, please note that, in the Romanian law, the maintenance obligation derives from the law, which is why it should not be mistaken for the maintenance obligation regulated under art. 2.254-2.263 of the Civil Code, which follows from the maintenance contract. Similarly, in a case, the court of law has shown that *“the legal maintenance obligation is a duty imposed under the law, whereas the conventional maintenance obligation is the one freely undertaken by any interested party, including the categories of persons between whom there is a legal obligation of maintenance, pursuant to the contractual freedom”* (Bucharest Court of Appeal, 4th Civil Division, Decision no. 3040/2000, *apud* Avram 2016, 511).

The legal maintenance obligation is regulated by Title V (*Maintenance Obligation*) of Book II (*On Family*), art. 513-534 of the Civil Code and it is supplemented, for instance, with other provisions, such as the ones stipulated in art. 389 of the Civil Code, regarding the maintenance obligation between former spouses, in art. 402 of the Civil Code with regards to the parents’ participation, in the case of a divorce, as well as in art.499 of the Civil Code, regarding the maintenance obligation between parents and their minor children (Law no. 287/2009 on the Civil Code, published in the Official Gazette of Romania, Part I, no. 511 of 24 July 2009).

Moreover, there are a number of legal provisions one should take note of, such as: art. 16(2); art.67; art. 104 of the Law no. 272/2004 on the protection and promotion of the child’s right (republished in the Official Gazette of Romania, Part I, no. 159 of 5 March 2014); art. 113(1)(4) – on alternate territorial jurisdiction; art.448(1)(4) – on the provisional rightful enforcement of the first court’s ruling; art. 729 – on the limitations of the prosecution of financial revenue, etc. of the Civil Procedure Code (Law no. 134/2010 on the Civil Procedure Code, republished with the Official Gazette of Romania, Part I, no. 247 of 10 April 2015), and, last but not least, art. 378 of the Criminal Code, which provides for and sanctions the marital abandonment (Law no. 286/2009 on the Criminal Code, published with the Official Gazette of Romania, Part I, no. 510 of 24 July 2009).

In case the legal obligation relation includes an extraneous element, the rule in art. 2.612 of the Civil Code apply, stipulating that *“The law governing the maintenance obligation*

is determined according to the regulations of the European Union law”. Thus, within the European Union, in the matter under scrutiny, Regulation (EC) no. 4/2009 of the Council of 18 December 2008 on jurisdiction, the relevant law, the acknowledgement and the enforcement of court rulings and the cooperation in the field of obligations and maintenance (published with the Official Gazette of the European Union no. L 7 of 10 January 2009) and the Protocol of Hague of 23 November 2007 on the law governing maintenance obligations (published with the Official Journal of the European Union no. L 331/17 of 16 December 2009) apply. The protocol was adopted on 23 November 2007 upon the occasion of the 11th edition of the Hague Conference on Private International Law and it was approved by the Council Decision of 30 November 2009).

The legal maintenance obligation sometimes is the effect of kinship, of the spouse or former spouse capacity or, finally, the effect of relations that are assimilated, under certain aspects, to family relations (Filipescu and Filipescu 2006, 542).

Both the specialty literature (Avram 2016, 510), and the legal practice (Sălaj District Court, Civil Division, Civil Decision no.499 of 20 October 2020), *the legal maintenance obligation* is defined as being “*the duty imposed under the law to a party to provide to another party the required subsistence means, both in material, and in spiritual terms*” (for other definitions, with some nuances, see Florian 2018, 575; Lupașcu and Crăciunescu 2021, 645; Bodoașcă 2020, 467; Dogaru 1978, 12).

The legal maintenance obligation relies on feelings of solidarity and mutual support, on the affection that should characterize family relations in general, as well as on the social cohabitation rules, according to which, the parties between whom such relations exist should not remain indifferent and should act in order to ensure to the other person the required means of subsistence, in case of need, because of the incapacity for work (Moloman 2012, 237; Drăgășani Law Court, Civil Decision no. 612 of 5 August 2020).

Parties between whom an obligation of maintenance exists

According to art. 513 of the Civil Code, the maintenance obligation only exists between the parties stipulated under the law. Thus, according to the provisions in art. 516(1) and (3) of the Civil Code, the maintenance obligation exists between the following subjects:

- Husband and wife, which means the two must be married;
- Former spouses, following the dissolved, null or cancelled marriage;
- Direct relatives, irrespective of whether the kinship is biological or by adoption, i.e.: between parents and children, grandparents and grandchildren, great grandparents and great grandchildren.
 - Siblings, whether biological or by adoption;
 - The other parties expressly stipulated under the law, who are not included under other provisions of the Civil Law and in special laws in the matter. For instance:
 - The spouse who participated in the maintenance of the other spouse’s (biological or adopted) child is bound to continue to provide support to the child for as long as the latter is a minor, if the biological parents died, or are missing or find themselves in a state of need [art. 517(1) of the Civil Code];
 - The child who benefited for at least 10 years from the maintenance of the biological parent’s spouse, may be bound to ensure the maintenance of the biological parent’s spouse [art. 517(2) of the Civil Code];
 - Former spouses in the case of putative marriage, where, according to art. 304(2) of the Civil Code, the provisions in the matter of divorce apply by assimilation to the spouse acting in good-faith;

- The party who obtains a child's custody for temporary care or protection, until a measure of protection is established according to the law, and the respective child [art. 16(2) of the Law no. 272/2004, as republished];

- The heirs of a party who was bound to provide for the maintenance of a child or who provided such maintenance without being bound to do so, and the respective child, up to the coming of age of such child, and only in so far as the biological parents of the child are dead, divorced, missing or find themselves in a state of need [art. 518(1) of the Civil Code]; heirs are bound by a maintenance obligation only within the limits of the inherited assets [art. 518(2) of the Civil Code];

- The adoptee and his/her successors, on the one hand, and the adoptive parent and the adoptive parent's direct relatives, on the other hand, or between siblings, considering the adoption triggers, by assimilation, the full effects of biological kinship [art. 516(2) of the Civil Code];

- The adoptee and their biological relatives or, as the case may be, the spouse, after the termination of the adoption (art. 520 of the Civil Code).

In this research paper, we shall only present and review the legal obligation of maintenance that exists between spouses and former spouses.

Obligation of maintenance between spouses

The legal obligation of maintenance of the spouses represents *their mutual duty to provide to each other the required subsistence means* (Bodoaşcă 2020, 501). Hence, the legal obligation of maintenance between the spouses may be defined as “the mutual obligation, deriving from the law and grounded on the institution of marriage, to provide the required subsistence means to each other” (Florian 2018, 600).

As a matter of fact, *spouses are under an obligation* to provide moral support to each other, according to the provisions in art. 309(1) of the Civil Code and, at the same time, they are bound to materially support each other, according to the provisions in art. 325(1) of the Civil Code. Thus, for example, in a case where it has been found that art. 309(1) of the Civil Code is also incident *inter alia*, the court noticed that “*the parties have been married as of 16.07.1969, and that currently, even though they share the same residence, they are financially separated, an aspect confirmed by both parties (the claimant – pursuant to the writ of summons, and the defendant through the statement of defense filed). According to the claimant's hospital discharge summary of 26.10.2012 and to the medical prescriptions of the claimant issued on 15.03.2012 and on 03.03.2012, respectively, it follows that the claimant suffers from several medical conditions (mainly ophthalmic and orthopedic), and aspect, which, combined with her age (75 years of age), creates the presumption that the claimant currently is in a state of need. This is even the more so since, according to the claimant's pension slip for the months of July and September 2012 and April 2011, it follows that she has an average monthly income of RON 251, appreciated by the court as insufficient for her maintenance, also considering her medical conditions. On the other hand, according to the defendant's pension slip for the month of October 2012 it follows his monthly revenue is of RON 583 lei. According to the evidence filed in the case, as analyzed, it follows that the claimant is in a state of need, being unable to support herself from work or out of her own revenue (the conditions for the creditor of the maintenance being thus met in her case), and the defendant, in the light of the higher amount of his pension as compared to that of the wife, does hold the required funds to pay spousal support to the wife (according to the provisions in art. 527(1) of the Civil Code). In the light of the above, the court finds that the claimant's request is grounded, so that it will admit it and shall order the defendant to pay to the latter the amount of RON 100 per month as spouse support, starting the date when the action was brought and up to the claimant's decease. Upon the setting of the spouse support amount, it*

shall be taken into account that this amount was unanimously accepted by the parties” (Focșani Law Court, Civil Decision no. 5737 of 8 November 2012).

In another case, the claimant, A.M. requested the court *“in the case versus the defendant A.G., to order the latter to monthly pay in her favor, on the 15th of each month, spousal support in cash, amounting to ½ of his net revenue to support her petition, the claimant has shown that the defendant has been her husband as of 1975. She mentioned that, during this period, they had constantly coin habited, that she never had a workplace and that she was a housewife. According to the claimant’s allegations, even though they live in the same apartment, the defendant refuses to provide her with any type of material support, all monetary entitlements being collected by the husband. Thus, he deprives her of the most basic needs, such as food, personal care, medicine. The court finds that, according to the provisions in art. 516(1) of the Civil Procedure Code, there is an obligation of maintenance between the husband and the wife but, on the first court date, the parties filed the transaction that occurred between them on the same date. De jure, the court shows that according to art. 438(1) of the Civil Procedure Code, “the parties may appear at all times during the court proceedings, even without having been summoned, to ask for a decision ascertaining their transaction”, whereas para. (2) of the same article states that “if the parties appear on the set court date, the ruling petition may be received even by a single judge”, and para. (3) stipulates that “if the parties appear on a different date, the court will rule in closed session”* (Constanța Law Court, Civil Division, Civil Decision no. 4771 of 30 June 2020).

The obligation of maintenance between spouses may materialize during the marriage, including during the divorce trial [art. 389(1) of the Civil Code], of course, subject to two conditions:

- *The state of need of the spouse who is the creditor of the maintenance.* In this respect, art. 524 of the Civil Code stipulates that *“only the spouse who is in a state of need is entitled to maintenance, being unable to support him/herself from work or own assets”*. The specialty literature defines the *“state of need”* as the *“situation of a person who is unable to satisfy natural material needs of food, clothing, dwelling, medication, and the spiritual ones, such as education, information, cultural development, etc.”* (Avram 2016, 515). In other words, the party unable to obtain revenue from work (salary, seniority pension, social security pension, copyright, etc.) or from the sale of own assets (leases, rents, sale of assets, etc.) is in a state of need. One of the causes leading to the impossibility of the individual to support themselves from the revenue obtained pursuant to an activity carried out is the *incapacity for work*, which should be construed *“both as a physiological or medical or social incapacity, and as a legal one. The incapacity for work may be full or partial, periodical or permanent”* (Ureche and Moloman 2015, 121). The causes for the incapacity for work may vary: health condition, bodily injury, old age, or, in the case of young people who, even though they are able to work, must complete their studies and their professional training. The creditor’s inability to support themselves may also derive out of the fact that the revenue obtained from work is not sufficient to cover the daily needs or out of the absence of assets that could be sold in order to obtain the necessary subsistence means.

For instance, in a case having as subject-matter the establishment of the spousal support for the wife, the court has found that *“pursuant to the documents submitted with the case file, it follows that the parties are spouses. Defendant M.D. obtains pension revenue amounting to RON 2,206 per month - pension slip for September 2017. The claimant obtains no revenue. According to his answers during the hearing, the defendant admits that he is the only one in the family obtaining revenue, and, even though he admits he does not support his wife, he agrees to fulfill this obligation towards her. According to art. 325 of the Civil Code, spouses are bound to materially support each other. Art. 341 of the Civil Code stipulates that the revenue obtained from work, the amounts due as pension as part of the social security system and other such are joint assets of the spouses. Moreover, art. 516 of the Civil Code mentions*

that the maintenance obligation exists between the husband and the wife, and, according to art. 524 of the Civil Code, only the party in need, unable to support him/herself from work or own assets, is entitled to maintenance. Hence, in this case, the defendant owes material support to the wife who obtains no revenue and is in need. The court admits the petition lodged by the claimant and shall order the defendant to pay spousal support to the claimant, amounting to RON 600 per month, quarterly indexable according to the law” (Moinești Law Court, Civil Decision no. 1491 of 12 October 2017).

Regarding the spouse who is the creditor of the maintenance obligation, please note that it must be demonstrated by the party invoking it and, since this is a legal fact, proof may be produced via all means of evidence. Moreover, it should be highlighted that *the state of need must not be absolute*, so that it may be assessed both in the light of the creditor spouse’s revenue, and in the light of the latter’s assets that could be sold in exchange for revenue (Florian 2018, 601).

- *The material means of the spouse who is the debtor of the maintenance obligation.* Regarding the debtor of the maintenance obligation, according to art. 527(1) of the Civil Code, only the party holding the means to pay it or the possibility to obtain such means can be ordered to provide it”. Pursuant to the interpretation of this text, it follows that it concerns both the debtor’s current means, and the future ones.

The party *holding the capacity for work*, but who does not obtain revenue from work for *reasons imputable to them* may not be exonerated from the maintenance obligation. In the case of those who *hold the capacity for work*, but they do not obtain revenue from work for *reasons not imputable to them* (they serve a detention sentence, they are unemployed and do not receive the state aid, continuation of studies, etc.), cannot be bound to fulfill the maintenance obligation if they do not hold other financial means.

In so far as the category of the revenues is concerned, it includes all the net revenue obtained, regardless of the field of activity, the only condition being that of continuity. The category of the revenue shall not include occasional revenue or the one obtained under special circumstances, related to the capacity for work of the respective person.

When establishing the means of the party liable for the maintenance, the court shall also consider their revenue and assets, as well as the possibilities to obtain the same. At the same time, other obligations they might have shall also be taken into consideration, if any [art. 527(1) of the Civil Code.].

It should be stated that, considering the provisions in art. 519(a) of the Civil Code, the main feature of the obligation of maintenance between spouses consists of its priority, the spouses being liable to each other for this maintenance obligation as a priority regardless of any other obligations they might have towards other parties. In this respect, in a case where the mother requested that the daughter paid her alimony, the court found that the defendant did not hold the required means to provide for such maintenance. *“As the first court correctly found, even though the defendant M.S. does obtain revenue from work, this revenue amounts to approximately RON 1,200 per month. Moreover, she has a duty of maintenance as a priority towards her husband who obtains no revenue, pursuant to art. 519(a) of the Civil Code. The defendant also has a minor daughter aged 14 to whom she must provide food, clothing and school stationery. The defendant’s revenue per family member is lower than that of the claimant. If she were ordered to pay alimony to the claimant, she would be in a situation in which she could no longer cover her family’s daily needs”* (Sălaj District Court, Civil Division, Civil Decision no. 499 of 20 October 2020).

In so far as the *amount of the spousal support is concerned*, it should be noted that it can be *increased or decreased*. In this respect, art.531(1) of the Civil Code stipulates that in case *“a change occurs with regards to the means of the party providing the maintenance obligation and the need of the party receiving it, the custody court may, according to the circumstances, increase or decrease spousal support or may decide to cancel its payment”*.

Hence the maintenance obligation is not absolute or perpetual once established, but, instead, it changes depending on the actual circumstances of the party providing it and of the party receiving it.

The *increase* of the amount of the spousal support shall be ordered by the court as of the date when it was requested, according to the rationale substantiating its granting (art. 532 of the Civil Code). In other words, the increase of a spousal support is, hence, conditional not only upon the increase of the revenue of the party bound to pay it, but also depending on the changes in the needs of the party in whose favor it was granted. Regarding the *decrease* of the amount of the spousal support, the specialty literature (Avram 2016, 521) shows that “it will be ordered as of the date when the cause leading to such measure occurred. If the spousal support were not decreased, this would lead to the enrichment without just cause of the creditor of the maintenance obligation”.

In a case having as subject-matter the increase of the spousal support, the court has found that “*the parties have been married since 1973, according to the marriage certificate filed. Currently, because of some misunderstandings, the two are separated in fact, they reside separately and individually manage their revenue. The defendant receives a net pension of RON 3,800 per month, while the claimant has a pension of RON 704/month. The court further shows that the maintenance needs of the claimant have increased, because she suffers from a medical condition, and the money she collects is insufficient to cover her medication, food and utility payments, which she is bound to pay, because the defendant refuses to contribute to the same. Moreover, the defendant’s revenue increased in the meantime, so that his pension amounts to more than 3,800, and he also benefits from a pension from Italy, according to the documents herein. The court further holds that art. 531 of Civil Code states that in case a change occurs with regards to the means of the party providing the maintenance obligation and the need of the party receiving it, the custody court may, according to the circumstances, increase or decrease spousal support or may decide to cancel its payment. Considering these aspects, the court will order the increase from the amount of RON 310/month to the amount of RON 500/month, as of 13 March 2020, the date when the action was brought and up to the date when the court orders otherwise*” (Vişeu de Sus Court of Law, Civil Decision no. 758 of 2 July 2020).

With regards to the provisions in art. 531(2) of the Civil Code it should be stated that even though the spousal support is set as a fixed amount, this amount is quarterly indexed depending on the inflation rate. This means that the garnishee (the employer of the maintenance obligation debtor) is bound to proceed to the quarterly indexing of the amounts garnished in the favor of the creditor, without requiring a court order for the increase of the spousal support with the indexed amount (Avram 2016, 522).

The maintenance obligation also exists in the case of the putative marriage, but only in favor of the spouse who acted in good-faith upon the conclusion of marriage, because, according to art. 304(1) of the Civil Code, the latter continues to be a spouse according to a validly concluded marriage up to the date on which the court order becomes final.

Legal obligation of maintenance between former spouses

According to art. 389(1) of the Civil Code, the obligation of maintenance between spouses ceases the dissolution of marriage and the obligation of maintenance between former spouses occurs, of course, subject to the observance of the legal terms. According to the case-law (Bacaci 2007, 187), the fundament of the obligation of maintenance between former spouses separated through the dissolution of marriage is represented by the moral and humanitarian rules by virtue whereof the obligation of maintenance between spouses continues even after they separate. In other words, in the case of the dissolution of marriage, in this case, the

former spouse has the legal, as well as the moral obligation to support the spouse in need up to a possible change in circumstances.

The capacity as “*husband*” and “*wife*” is also lost upon the dissolution of marriage, and alongside it, the obligation of maintenance between the two. The phrase “*former spouse*” shall mean the person who, when the maintenance is requested, holds the capacity as divorcee or of a party whose marriage was declared to be a putative one. It should be highlighted that the phrase “*former spouse*” does not include the widow(er), whose marriage ceased (Bodoaşcă 2020, 503).

As shown in the legal specialty literature (Filipescu 1970, 67-80), the reason of the maintenance obligation between former spouses derives from the experience of the previous family relations between them, which call for mutual moral and material support.

The former spouse claiming spousal support, pursuant to art.389 of the Civil Code, must observe all the conditions that the law generally imposes to a creditor of the maintenance obligation, i.e.: *the state of need* and the incapacity for work. Pursuant to the interpretation of the provisions in art. 389(2) of the Civil Code, it follows that the former spouse claiming spousal support, on these grounds, must meet a special requirement, i.e.: that the incapacity for work occurred prior to or during the marriage; the former spouse’s entitlement to maintenance occurs even if the incapacity for work arises within one year as of the dissolution of marriage, but only if it is caused by circumstances related to the marriage.

Pursuant to the review of the aforementioned provisions, it follows that the divorced spouse is entitled to maintenance if three conditions are met, i.e.:

- *That the spouse is in a state of need*, i.e., cannot obtain revenue from work. For instance, in a case having as subject-matter the establishment of the spousal support after the dissolution of marriage, the court decided that “*the conditions stipulated in art. 389 of the Civil Code are not met, because the defendant-claimant receives invalidity pension pursuant to a medical condition occurred during the marriage and supplements her revenue by working abroad, so that it cannot be stated that she is in a state of need*” (Suceava Court of Appeal, Civil Decision no. 993 of 18 September 2013). In another case, the court decided that “*the maintenance obligation between former spouses also exists in case the claimant receives an invalidity pension that is insufficient to cover the subsistence needs*” (Bucharest District Court, 4th Civil Division, Decision no. 181/1991, *apud* Mihuță 1992, 54).

- *The need must derive from the incapacity for work*. For instance, in a case, the court decided that “*the conditions in art. 389 of the Civil Code are met, the divorced spouse being entitled to spousal support in case it suffers from a severe and irreversible disability, which reduces their capacity for work to 25%*” (Drobeta-Turnu Severin Law Court, Civil Decision no. 925/2012).

- *That the incapacity occurred within a year* as of the dissolution of the marriage, but provided, however, that this incapacity is caused by circumstances related to the marriage. For instance, as shown in the specialty literature (Avram 2016, 530), the incapacity could be due to childbirth. For example, in a case, the court holds that “*the claimant was diagnosed as suffering from bipolar disorder, other appetite disorders, metal and conduct disorders due to the use of tobacco, the syndrome of addiction and non-organic insomnia, the disorder persisting throughout the marriage of the parties, and the incapacity for work occurred in the context of these medical conditions during the marriage, i.e., in 2019, in May. They are also corroborated with the disability certificate, issued by the Board for the Evaluation of Adults with Disabilities, according to which the claimant was included under the severe disability category. The claimant has not been an employee on the territory of Romania starting May 2019, and she receives a monthly disability pension of RON 860 according to the information provided by the Pension Fund. The court appreciates that a spousal support of 1/4 of the net monthly revenue of the defendant covers the claimant’s basic needs, a lower amount being insufficient as compared to the revenue obtained by the parties and to the claimant’s current*

status, which is unable to obtain additional revenue because of the full incapacity for work. Moreover, such a pension is not an obligation that affects the defendant's means of subsistence. In so far as the date as of which the spousal support is due, according to art. 532(1) of the Civil Code, the spousal support is due as of the date of the writ of summons" (Bucharest 4th District Court, Civil Division, Civil Decision no. 1276 of 6 March 2020).

Hence, pursuant to the above, it follows that the divorced spouse is entitled to maintenance if three conditions are met, i.e.: that they are in need, the need must be the consequence of the incapacity for work and that the incapacity occurred within one year as of the dissolution of marriage. No other reasons invoked by any of the spouses to claim spousal support from the former spouse is regarded as legal grounds in this respect. For instance, in a case, where the appellant *"invoked certain abuses of the defendant appellee against the members of the family and stated that her capacity for work was affected because of the back pains and the depression, the district court holding that the abuses invoked by the appellant against the members of the family do not represent grounds for claiming spousal support from the former spouse, according to the provisions in art. 389 of the Civil Code."* (Bucharest District Court, 5th Civil Division, Civil Decision no. 552 of 20 February 2019).

According to art. 389(4) of the Civil Code, if the divorces are pronounced due to the exclusive fault of one of the spouses, the spouse shall only benefit from support for one year as of the dissolution of marriage. In other words, art. 389(4) of the Civil Code applies in the situation in which *"the spouse whose fault led to the dissolution of marriage is the beneficiary of the spousal support, and not the spouse who is the creditor of the obligation, if the spouse at fault for the dissolution of the family relations is the debtor"* (Dolj District Court, 1st Civil Division, Civil Decision no. 1392 of 11 July 2019).

In a case ruled upon under the auspices of the former regulations in the matter, the court appreciated that *"the maintenance obligation persists even if the incapacity of the spouse who is the creditor of the obligation occurred because of his/her own fault"*. For instance, attempted suicide (Olt County District Court, Civil Decision no. 447/1982 *apud* Avram 2016, 530, footnote 2 and the mentions of the author).

With regards to the order of precedence, former spouses owe each other spousal support just like spouses, as a priority, their obligations towards each other as spouses taking precedence over their obligations towards their parents (Hageanu 2017, 366).

Termination of the maintenance obligation

The right to maintenance ceases when the former spouse who is the creditor of the maintenance obligation remarries, according to the provisions in art. 389(5) of the Civil Code.

According to the provisions in art. 531(1) of the Civil Code, the custody court may, according to the circumstances, order the cessation of the payment of the spousal support. In this respect, the cessation of the legal maintenance obligation may be determined by various causes, such as:

- The disappearance of one of the conditions the creditor of the maintenance obligation was supposed to fulfill (the state of need or the incapacity for work);
- The debtor of the maintenance obligation no longer holds the required means to pay the spousal support;
- The decease of the creditor of the maintenance obligation, unless the law stipulates otherwise [art. 514(2) of the Civil Code].
- The cancellation, dissolution or termination of marriage;
- The remarriage of the spouse entitled to spousal support.

As it may be noted, some causes only trigger the temporary cessation of the maintenance obligation (the lack of the debtor's material means), whereas others trigger the final termination thereof.

For instance, in a case, claimant D.I. sued defendant D.G.D. requesting the court to order the cessation of the spousal support payment, because the defendant no longer was in a state of need, following the conclusion of a marriage. Pursuant to the review of the submissions made in the case, the court held that “*as long as the evidence submitted in the case showed that the defendant got married, the maintenance obligation established against the claimant and in the favor of the defendant becoming subsidiary to the maintenance obligation that exists between the spouses, the circumstances based on which the spousal support was granted pursuant to civil decision no. 5029/23.06.2017 of Galați Law court have changed. In the light of these considerations, the court orders the cessation of the spousal support payment*” (Galați Law Court, Civil Division, Civil Decision no. 5708 of 30 October 2020).

Conclusions

To conclude, *the legal maintenance obligation* represents the duty imposed under the law to a person to ensure to the other person the required subsistence means, both in material and spiritual terms.

The legal maintenance obligation relies on feelings of solidarity and mutual support, on the affection that should characterize family relations in general, as well as on the social cohabitation rules, according to which, the parties between whom such relations exist should not remain indifferent and should act in order to ensure to the other person the required means of subsistence, in case of need, because of the incapacity for work.

The maintenance obligation only exists between the parties stipulated under the law, including spouses and former spouses, and it may materialize at all times during the marriage, including during the divorce trial, of course, subject to the observance of two conditions: the *state of need of the maintenance creditor spouse and the material means of the maintenance debtor spouse*.

The termination of the maintenance obligation may be ordered by the custody court, for one of the following causes: the disappearance of the state of need or of the incapacity for work, the debtor of the obligation is no longer able to provide the spousal support, the decease of the debtor or creditor of the spousal support, the remarriage of the spouse entitled to spousal support.

References

- Avram, Marieta. 2016. *Drept civil. Familia [Civil law. The family]*, 2nd Edition, reviewed and supplemented. Bucharest: Hamangiu Publishing House.
- Bacaci, Alexandru. 2007. *Raporturile patrimoniale în dreptul familiei [Patrimonial relations in family law]*, 2nd Edition. Bucharest: Hamangiu Publishing House.
- Bodoaşcă, Teodor. 2020. *Dreptul familiei [Family law]*, 4th Edition, reviewed and supplemented. Cluj-Napoca: Risoprint Publishing House.
- Bucharest 4th District Court, Civil Division, Civil Decision no. 1276 of 6 March 2020, available at www.rolii.ro (accessed on 09.03.2021).
- Bucharest District Court, 5th Civil Division, Civil Decision no. 552 of 20 February 2019, available at www.rolii.ro (accessed on 23.03.2021).
- Constanța Law Court, Civil Division, Civil Decision no. 4771 of 30 June 2020, available at www.rolii.ro (accessed on 24.03.2021).
- Dogaru, Ion. 1978. *Întreținerea, drept și obligație legală [Maintenance, right and legal obligation]*. Craiova: Scrisul românesc Publishing House.
- Dolj District Court, 1st Civil Division, Civil Decision no. 1392 of 11 July 2019, available at www.rolii.ro (accessed on 22.03.2021).
- Drăgășani Law Court, Civil Decision no. 612 of 5 August 2020, available at www.rolii.ro (accessed on 22.03.2021).
- Drobeta-Turnu Severin Law Court, Civil Decision no. 925/2012, available online, in summary, in <https://www.legal-land.ro/obligatia-de-intretinere-intre-fostii-sotii/> (accessed on 21.03.2021).

- Filipescu, Ion P. 1970. “Obligația de întreținere între foștii soți [Maintenance obligation between ex-spouses].” In *Revista română de drept* no. 20: 67-80.
- Filipescu, Ion P. and Filipescu, Andrei I. 2006. *Tratat de dreptul familiei [Family law treaty]*, edition VIII, reviewed and supplemented. Bucharest: Universul Juridic Publishing House.
- Florian, Emese. 2018. *Dreptul familiei. Căsătoria. Regimuri matrimoniale. Filiația [Family law. Marriage. Matrimonial regimes]*, 6th Edition. Bucharest: C.H. Beck Publishing House.
- Focșani Law Court, Civil Decision no. 5737 of 8 November 2012, available at www.rolii.ro (accessed on 24.03.2021).
- Galați Law Court, Civil Division, Civil Decision no. 5708 of 30 October 2020, available at www.rolii.ro (accessed on 20.03.2021).
- Hageanu, Cristina Codruța. 2017. *Dreptul familiei și actele de stare civilă [Family law and civil status documents]*, 2nd Edition reviewed and supplemented. Bucharest: Hamangiu Publishing House.
- Lupașcu, Dan and Crăciunescu, Cristiana Mihaela. 2021. *Dreptul familiei [Family law]*, 4th edition, amended and updated. Bucharest: Universul Juridic Publishing House.
- Mihuță, Ioan G. 1992. *Culegere de practică judiciară civilă pe anul 1991 [Collection of civil judicial practice for 1991]*. Bucharest: Șansa Publishing House.
- Moinești Law Court, Civil Decision no. 1491 of 12 October 2017, available at www.rolii.ro (accessed on 21.03.2021).
- Moloman, Bogdan Dumitru. 2012. *Dicționar de dreptul familiei [Family Law Dictionary]*. Bucharest: Universul Juridic Publishing House.
- Olt County District Court, Civil Decision no. 447/1982, in „Revista Română de Drept” no.3/1982, p. 87.
- Sălaj District Court, Civil Division, Civil Decision no. 499 of 20 October 2020, available at www.rolii.ro (accessed on 20.03.2021).
- Suceava Court of Appeal, Civil Decision no. 993 of 18 September 2013, available at <https://www.jurisprudenta.com/jurisprudenta/speta-kwst9ha/> (accessed on 21.03.2021).
- Ureche, Lazăr-Ciprian and Moloman, Bogdan-Dumitru. 2015. “Succinte considerații cu referire la obligația de întreținere în actuala statoincirea a Codului civil [Brief considerations regarding the maintenance obligation in the current establishment of the Civil Code].” In *Dreptul* no. 9: 111-128.
- Vișeu de Sus Court of Law, Civil Decision no. 758 of 2 July 2020, available at www.rolii.ro (accessed on 21.03.2021).

Self-Regulation Interventions for Attention Deficit Hyperactivity Disorder in the Classroom

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ABSTRACT: Attention deficit hyperactivity disorder (ADHD) is a pervasive condition that can negatively affect student behavior and academic performance. The link between impairment of executive function in individuals with ADHD and the need for training in self-regulation could provide the solution for effective school-based interventions. This review addresses the effectiveness of self-monitoring, organization training, and self-management interventions on symptoms of ADHD in the classroom. The studies analyzed include students in various models of support in elementary, middle, and high school. All interventions showed some level of success, with the inclusion of goal setting and parent or teacher involvement being key factors in how well the interventions maintained over time and generalized to academic performance. Limitations of the current studies include small sample size and insufficient data on each intervention across grade levels. Current research findings are discussed, and a direction for future research is recommended.

KEYWORDS: ADHD, self-monitoring, self-regulation, self-management, goal setting, organization, school-based intervention

Self-Regulated School-Based Interventions for Attention Deficit Hyperactivity Disorder

Managing Attention Deficit Hyperactivity Disorder (ADHD) in the classroom is a significant concern in education today. ADHD is one of the most prevalent conditions seen in schools, with an estimated 6.1 million children diagnosed (Centers for Disease Control and Prevention, 2016). This disorder carries with it a host of academic and behavioral impairments, including difficulty remaining on task and controlling impulsive behavior (Power et al. 2017). On-task behavior is especially affected during activities such as attending to instruction or working independently, which can often lead to a decline in academic performance (DuPaul 2006). There is a need for efficacious school-based interventions to assist with behavior and academic performance and improve the overall success of students with ADHD.

External supports such as prescribed medicine, accommodations, and consequence-based behavior plans are often used to manage ADHD symptoms in the classroom (Gaastra et al. 2016). Medication for ADHD can show positive impacts for some individuals but can also lead to adverse side effects (Spencer et al., 2002). Hesitance to pursue a medicinal route, difficulty finding a correct dose, and forgetting to take daily medicine are all factors that keep this from being a reliable treatment for all individuals with ADHD (Gaastra et al. 2016). The use of accommodations, such as reducing the length of assignments, extended time, and adult support of organizational materials can assist in on-task behavior and increased completion of work (DuPaul et al. 2011). Yet, once accommodations are removed, on-task behavior has been shown to immediately decrease (Harrison et al. 2020). Consequence behavior plans such as token economies or daily report cards can be effective, but they rely on teachers identifying and reinforcing appropriate student behavior (DuPaul et al. 2011). Students need to learn strategies to manage their symptoms that can be incorporated across educational settings. The need for effective, generalizable school-based interventions for students with ADHD is a significant problem in education that needs to be addressed.

ADHD, Executive Function, and Self-Regulation

Determination of appropriate interventions can occur once the source of the academic and behavior problems is addressed. Executive functions, which play a role in success in the classroom, can be impaired in individuals with ADHD, causing difficulty with the management of daily tasks (Brown 2008). ADHD is related to problems with cognitive functions such as regulating emotions and actions, organization, and focus. ADHD can also affect the cognitive tasks of goal setting and problem-solving (Fuggetta 2006). Inability to effectively focus on tasks, manage time and materials, and set goals for performance often leads to frustration, which can be expressed as outbursts and disruptive behavior. This behavior can also negatively affect academic performance. Interventions that support executive functions in individuals with ADHD could help students learn to manage their own behavior, which could also lead to greater academic success.

One way to address executive function impairment in students with ADHD is through training on self-regulation skills such as goal setting, organization, and self-monitoring. Self-regulated learning theory is based on the foundation that an individual is in control of all aspects of their learning. It includes metacognitive, motivational, and behavioral components that ultimately lead to intellectual independence (Zimmerman 2000). A key component of the successful implementation of self-regulated learning interventions is the explicit teaching and modeling of skills (Zimmerman 2002). Not only are students trained in self-regulation skills, but teachers and parents are often trained so that they can adequately support the student. However, the ultimate goal of a self-regulated learning intervention is to help students manage their learning and behavior (Zimmerman 2002). Self-regulation can provide an effective intervention to improve the behavior and academic performance of students with ADHD.

Existing Reviews of the Literature

Prior literature reviews have addressed the efficacy of interventions to support students with ADHD in the classroom. Self-monitoring interventions to improve on-task behavior of students with varying disabilities and behavior problems have been the subject of multiple reviews (Bruhn et al. 2015; Joseph & Eveleigh 2011; Webber, Scheuermann, McCall, & Coleman 1993). While students with ADHD have been present in some of these studies, the relation of self-monitoring specifically for students with ADHD was not the focus. Alsalamah (2017) reviewed research on the use of self-monitoring interventions for on-task behavior of students with ADHD. The results of this review showed improvements in on-task behavior and academic performance for students with ADHD, however, self-monitoring was the only self-regulation strategy to be addressed. Two reviews were found that explored the aspects of self-regulation interventions for students with ADHD in a more comprehensive manner, including research that focused on planning and goal setting as well as self-monitoring (Reddy et al. 2017; Reid et al. 2005). Both of these reviews found promising results of a self-regulation intervention on both the behavior and academic performance of students with ADHD. However, there is an opportunity for more recent research to be included in this analysis, as well as additional studies that were not included in prior reviews. A current literature review is needed to re-examine the effectiveness of school-based self-regulation interventions for students with ADHD, and to explore the function of goal setting on behavior and academic performance.

Purpose of Research

The goal of this paper is to review the current research on school-based self-regulated interventions for students with ADHD to better understand the efficacy of the interventions. Specifically, skills training on self-monitoring of on-task behavior, organization, and self-management were examined. Table 1 defines the interventions analyzed in this review. The

research was driven by three main questions: First, how effective are self-regulated learning interventions for improving classroom behavior and academic performance of students with ADHD? Second, is the efficacy of the intervention affected by the components of self-regulation that are addressed? Finally, what is the relation between teacher and parent involvement and the efficacy of self-regulated learning interventions?

Table 1. Definitions of Interventions Studied

Intervention	Description
Self-Monitoring	Subset of self-management with focus on on-task behavior: student observes and monitors target behavior, tracking either with paper and pencil or on electronic device
Organization Training	Subset of self-management with explicit instruction in skills training for organizing materials/time-management
Self-Management	Initiated by planning stage in which goal intentions are set, combined with self-monitoring or organization training; often accompanied by self-evaluation/self-reinforcement

Method

Searches for relevant articles were performed using the key terms *attention deficit hyperactivity disorder*, *self-regulated learning*, *self-regulation*, *self-management*, *self-monitoring*, *goal setting*, *planning*, *organization*, and *school-based intervention*. Citations found in articles that lead to relevant sources were also reviewed. Only peer-reviewed and published works available in a full-text format were considered. Articles were selected for review if the interventions were implemented in a school-based setting within the last 15 years, with students in elementary school through high school. Studies were analyzed concerning the intervention used, the age of the participants, the inclusion of teacher and parent support, and outcomes. Table 2 briefly describes each study included in this review.

Table 2. Summary of Research

Reference	Intervention	Details	Participants	Teacher or Parent Involvement	Results
Harris et al. (2005)	Self-management focusing on class preparation skills	Comparison of self-monitoring of attention and self-monitoring of academic performance	3 rd through 5 th graders with ADHD in inclusion model	Classroom teacher trained in intervention	Increase in on-task behavior. Meaningful increase in correct spelling of words with SMA/higher level of spelling of practice with SMA

Gureasko-Moore et al. (2006)	Self-management focusing on class preparation skills	Self-management training session done during homeroom Weekly goal setting, self-monitoring, self-reinforcement	7 th graders with ADHD in general education class	Teachers chose students for the study as well as the target academic area	Increase in class preparation behavior. Skills were maintained after intervention was faded.
Gureasko-Moore et al. (2007)	Self-management with focus on classroom preparation skills and homework completion	Used in targeted academic classroom Included self-evaluation	Middle schoolers with ADHD in general education class	Teachers chose participants and academic area of focus	Increase in classroom preparation skills and homework behaviors. Participants performed as well as their classmates in class preparation and homework skills.
Langberg et al. (2008)	Organization training	8-week skill training on organization of materials and tasks	Middle schoolers with ADHD in general education class	Supported in classrooms by teachers Parent sessions offered	Significant improvements in organization and homework maintenance skills/GPA Gains maintained after 8 week follow up.
Lienemann and Reid (2008)	Self-management	Self-Regulation Strategy Development (SRSD) Goal setting, self-monitoring, self-reinforcement	4 th and 5 th -grade students with ADHD in general education classroom	Not specified	Quality and length of essays increased.
Evans et al. (2009)	Self-management	Challenging Horizons Program-organization training with goal setting	Middle schoolers with ADHD in general education class	Not specified	Improvement in organization of academic materials and improvements in grades for majority of participants.
Graham-Day et al. (2010)	Self-monitoring	Audiotaped chimes and student checklist with self-reinforcement	High school students with ADHD in study hall for students with exceptionalities	Not specified	Increased on-task behavior. No correlation between behavior and improved grades.

Rafferty et al. (2011)	Self-monitoring	Task cards and taped tones used as cues	5 th grade students with ADHD in general education classroom	Teacher provided intervention	Increased time on task equivalent to level of peers. Increased spelling accuracy.
Guderjahn et al. (2013)	Self-management	Volitional self-regulation technique	5 th through 10 th -grade students with ADHD at a school for children with ADHD.	Teacher provided intervention	Self-regulatory behaviors increased, with lasting effects resulting from the use of goal-intentions.
Morrison et al. (2014)	Self-monitoring	Self-assessment prompted by pager to remind students to check in	High schoolers with ADHD in general education class.	Teacher provided intervention	Increase in completion of independent work. Increase in correctly completed work.
Wills and Mason (2014)	Self-monitoring	Student observes and records behavior on tablet application	ESE high school students with ADHD in inclusion model	Not specified	Positive improvements in on-task behavior. On-task behavior decreased when app was removed.
Cirelli et al. (2016)	Organization	Activity schedule book to map out independent work	Elementary school students with ADHD in inclusion model.	Teacher provided intervention	Substantial increase in on-task and on-schedule behavior without the need for teacher prompts.
Evans et al. (2016)	Self-management	Challenging Horizons Program Identify personal goals, focus on study skills and organization	Middle school students with ADHD in general education classrooms	Parent meetings Teachers identified students of need	Meaningful benefits to organization, time management, homework, academic functions, inattentive symptoms.
Schramm et al. (2016)	Self-management	Organization training with goal setting and problem-solving	Middle school students with ADHD	Behavioral training for parents and teachers Content of trainings chosen in collaboration with teachers	Significant reduction in ADHD symptoms and decreased internalization of problem behavior.

Vogelsang et al. (2016)	Self-monitoring	iPad application SCOREIT for students to monitor on-task behavior	5 th -grade students with ADHD in general education classroom	Teacher opinions of feasibility of program considered	Substantial increase in academic engagement.
Chaimaha et al. (2017)	Self-management	Planning, goal setting, monitoring, working memory training	Elementary school students with ADHD in inclusion model classroom	Parents and teachers trained as “supporters”	Significant improvement in working memory, planning, monitoring skills, school performance.
Ennis et al. (2018)	Self-monitoring	Focus on academic engagement, work completion	5 th -grade students with ADHD in resource classroom	Teachers provided intervention	Increase in academic and behavioral performance.
Sluiter et al. (2019)	Self-monitoring	Interval timer used to remind students to monitor on-task behavior	Students with ADHD in special needs primary school	Teacher provided intervention	Off-task behavior significantly reduced.
Harrison et al. (2020)	Self-management	Organization, note-taking instruction with goal setting and iPad application to record behavior	Middle school students with ADHD in general education classroom	Not specified	Meaningful gains in training skills. Skills likely to be maintained after training.

Results

Self-Monitoring

Self-monitoring, a subset of self-management, focuses on the identification of a target behavior and student-based monitoring of that behavior during timed intervals (Bruhn et al. 2015). On-task behavior is defined, and students are responsible for reflecting on their adherence to that expectation for the duration of the intervention. The studies reviewed showed on-task behavior to improve with the use of self-monitoring, but there are inconsistent results regarding academic performance and generalization to other content areas.

Elementary School

Self-monitoring interventions that were implemented by classroom teachers for elementary students with ADHD showed improvements in on-task behavior as well as academic performance. In a fifth-grade resource classroom for students with exceptionalities, students using a self-monitoring checklist with a tactile cueing system showed improvement in behavior and academic performance (Ennis et al. 2018). Teachers were involved in planning the intervention before implementation. The use of task cards and tape-recorded tones to remind students to reflect on behavior resulted in increased time on task as well as increased spelling accuracy during a spelling lesson in a general education fifth-grade class (Cirelli et al. 2016). Substantial increases in academic engagement were recorded when teachers assisted in developing and implementing an intervention in which an application called SCOREIT assisted the self-monitoring of fifth grade students in a general education class

(Vogelsang et al. 2016). In a primary school for students with exceptionalities, a class of nine through 12-year-old students used an interval timer to assist with self-monitoring on-task behavior (Rafferty et al. 2011). Classroom teachers implemented this intervention during the math block, and off-task behavior reduced significantly. Self-monitoring of attention was compared with self-monitoring of academic performance in an inclusion setting for elementary students, resulting in improvement in on-task behavior for both interventions (Harris et al. 2005). Work accuracy also increased as a result of attention self-monitoring. Self-monitoring interventions for elementary students were implemented across a spectrum of support for students that ranged from pull-out services to an inclusion model that supported students with exceptionalities in the general education classroom. Regardless of educational setting, there were significant improvements in behavior and/or academic performance. All studies conducted included the classroom teacher in planning and/or implementation of the intervention. Self-monitoring interventions for elementary school students that include an active role of the classroom teacher can be beneficial for improving academic performance and behavior in the classroom.

High School

Self-monitoring interventions along with an auditory, tactile, or technology-based prompting system were successful for high school students with ADHD in various academic settings. The use of a pager to prompt students to record on-task behavior showed encouraging results for high school students in a general education biology class (Morrison et al. 2014). A trained classroom teacher provided the intervention, and self-monitoring positively affected both on-task behavior and correctly completed independent work (Morrison et al. 2014). In an inclusion model described as general education classroom support for students with exceptionalities, students using an application on a handheld tablet to monitor on-task behavior showed improvements in the targeted on-task behavior (Wills & Mason 2014). However, when the application was taken away, the students' on-task behavior decreased. The use of a student checklist prompted by audiotaped chimes to observe and record conduct resulted in increased on-task behavior for high school students in a study hall for students with exceptionalities (Graham-Day et al. 2010). However, while on-task behavior improved, there was no correlation between this behavior and improved grades. In all cases, the use of a self-monitoring strategy did appear to lead to an increase in on-task behavior for the duration of the intervention, however the effects may be limited. While results are promising for high school students using a self-monitoring strategy exclusively, there is not enough information to determine if the intervention would generalize to other settings or subject areas.

Organization Training

Organization training that includes opportunities for parent and teacher support can lead to significant improvement in student behavior in elementary school and middle school students with ADHD. Organization training involves explicitly teaching and modeling skills to help students organize materials or independent tasks. The use of an activity schedule book to help elementary school students focus on the organization of tasks and time-management led to a substantial increase in on-task and on-schedule behavior in the absence of teacher prompts (Cirelli et al. 2016). Before implementation, researchers surveyed teachers' concerns and incorporated them into the intervention. Students showed significant improvement in organization skills and homework maintenance after attending an eight week after-school organization skills training which was supported in the general education classroom (Langberg et al., 2008). Parent sessions were also offered to increase home support. Teacher ratings of academic impairment improved, and gains were maintained by students at an eight week follow up (Langberg et al 2008). Significant gains in behavior resulted from

interventions that focused strictly on organization training with the inclusion of teachers and/or parent support (Cirelli et al. 2016; Langberg et al. 2008). Giving the classroom teacher the opportunity to choose an area of focus could account for the success of organization training in the classroom. Building a support system beyond the classroom by offering parent sessions could factor into the lasting effects of the skills training. Parent and teacher supported organization training can potentially lead to academic improvement for elementary and middle school students, as well as maintenance of skills beyond the scope of the intervention.

Self-Management

Self-management interventions spanning grade levels and settings have shown encouraging results with on-task behavior and academic performance. Self-management interventions included in this review incorporate a planning, or goal setting component prior to self-monitoring or organization training. Self-evaluation as well as self-reinforcement are also evident in some uses of self-management interventions. Most of the literature on self-management interventions is focused on middle school students with ADHD, but there have been significant effects recorded for high school and elementary school students, both regarding on-task behavior and improved academic performance.

Elementary School

Self-management interventions for elementary students with ADHD have resulted in significant improvements in classroom behavior and academic performance. Self-Regulation Strategy Development (SRSD) is an intervention that specifically teaches students how to set goals, self-monitor performance, and self-reinforce using a scaffolded approach (Lienemann & Reid 2008). Researchers explicitly taught and modeled targeted strategies in an SRSD model, until students could autonomously execute them during expository writing instruction in a general education classroom. The quality and length of the essays produced during the course of the intervention increased for all students (Lienemann & Reid 2008). When students, parents, and teachers were all exposed to a self-management training in which planning with goal setting and self-monitoring were addressed, the intervention resulted in significant improvement in school performance as well as targeted skills (Chaimaha et al. 2017). While self-monitoring alone has shown improvement in behavior and academic performance for elementary school students, the addition of goal setting and self-reflection along with the explicit teaching of self-management strategies also exhibited favorable results. The use of a support system of parents and teachers may also be an important factor in the success of self-management interventions. In general, elementary school students responded well to the use of self-management interventions and showed positive improvements in behavior and quality of work.

Middle School

Middle school students with ADHD trained in self-management strategies have shown improvements in behavior and classroom performance. A training program focused on self-management, organization, and note taking along with the use of an iPad application to track behavior resulted in meaningful gains in training skills (Harrison et al. 2020). Data trends also pointed toward the likeliness of skills being maintained after training. A self-management intervention combined with parent and teacher training to develop a support system for students resulted in a significant decrease in ADHD symptoms along with a decrease in the internalization of problem behaviors (Schramm et al. 2016). A training program that focused on study skills such as organization and time management, along with identification of personal goals showed meaningful benefits in all areas addressed (Evans et al. 2016). The

Challenge Horizons Program (CHP) explicitly teaches study skills along with identification and tracking of personal goals in an after-school program, with reinforcements built-in for the classroom and home. The benefits of CHP have also generalized to improved grades for many students involved in the intervention, dependent upon the addressed subject (Evans et al. 2009). Middle school students responded well to the use of self-management strategies, and the use of goal setting may lead to maintenance of the skills taught beyond the duration of the intervention. Core skills taught also have the potential to generalize to other aspects of the students' lives. The incorporation of goal setting with organization and self-monitoring as well as the creation of a supportive classroom and home environment have shown positive effects on behavior and academics for middle schoolers with ADHD.

Autonomy for teachers to choose participants, as well as the targeted content areas, may contribute to the success of self-management interventions with middle school students (Gureasko-Moore et al., 2006; Gureasko-Moore et al., 2007). When teachers chose students to be trained in self-management procedures including goal setting and self-evaluation, significant increases in the addressed behaviors were observed, and students in the intervention performed as well as their peers in the target areas of class preparation and homework completion (Guerasko-Moore et al. 2006; Gureasko-Moore et al. 2007). Academic areas of need have also shown improvement with teacher-directed self-management, along with the maintenance of skills after the intervention was faded (Gureasko-Moore et al. 2006). Teacher autonomy in planning and supporting the targeted intervention could strengthen the effects due to teachers taking ownership of implementing and supporting the intervention. The teacher's role in self-management interventions could lead to improvements in behavior and academic performance for middle school students, with the potential to continue beyond the duration of the intervention.

Elementary School through High School

While not comprehensive, the research on self-management interventions for high school students with ADHD is promising. The incorporation of goal setting and self-monitoring was successful for special needs students in fifth through tenth grade at a school designed for students with ADHD (Guderjahn et al. 2013). Teachers trained to implement a volitional self-regulation technique in which goal intentions were set, if-then statements developed, and self-monitoring interventions implemented reported improvements in self-regulatory behaviors among their students. All components of the intervention had a positive effect on student behavior, but lasting effects of the intervention were seen when students began with goal setting alone. The implications of this research on self-management suggest the importance of goal setting and teacher involvement in an effective classroom intervention for students with ADHD.

Discussion

Self-monitoring interventions and organization training for students with ADHD are beneficial for managing symptoms for students across grade levels and classroom support models. Self-monitoring increased on-task behavior for the duration of the intervention in all instances, and improved academic performance in conditions when the classroom teacher was either responsible for assisting with planning the intervention, or implementing the intervention (Ennis et al. 2018; Morrison et al. 2014; Rafferty et al. 2011; Sluiter et al. 2019; Vogelsang et al. 2016). Teacher input regarding the students chosen for the intervention, targeted behavior, and academic area of need could make a difference in the efficacy of a self-monitoring intervention. Students may also be more successful using an intervention that is executed by their classroom teacher. Conditions in which the role of the teacher in the intervention was not specified either showed no correlation between improved academic performance and on-task behavior (Graham-Day et al. 2010), or experienced a decrease in on-task behavior immediately following the removal of the self-

monitoring tool (Wills & Mason 2014). Organization training showed substantial improvements in on-task behavior of elementary school students in which teachers applied the intervention (Cirelli et al. 2016), and generalized to increased academic success for middle school students in which parents and teachers were offered training as well (Langberg et al. 2008). Both self-monitoring and organization training independent from planning or self-reflection showed improvement in behavior and the potential to improve academic performance when supported by parents and teachers.

Self-management interventions demonstrated positive outcomes in all grade levels and classroom models of implementation. The incorporation of a goal setting aspect is a common thread in all of the self-management interventions reviewed, which is incorporated in a planning stage prior to self-monitoring or organization training. Some interventions showed additional benefits along with an increase in on-task behavior, such as maintenance of skills after fading of the intervention (Gureasko-Moore et al. 2006) and improved academic performance (Evans et al. 2009; Harris et al., 2005; Lieneman & Reid 2008). Teacher inclusion in intervention development or initial implementation was evident in all but three studies (Evans et al. 2009; Gureasko-Moore et al. 2006; Harrison et al. 2020), with positive effects of the intervention still apparent. If-then statements added to goal-intentions were especially effective with students in elementary school through high school in boosting self-regulatory behaviors, but goal setting was found to have the greatest impact on the lasting effect of the intervention (Guderjahn et al. 2013). Based on the studies reviewed, self-management interventions were the most likely to lead to improved academic success and extension of skills beyond the duration of the interventions.

Self-monitoring, organization training, and self-management are beneficial in increasing on-task behavior for students with ADHD and have the potential to improve academic performance. Each of these interventions gives students the responsibility of tracking their behavior, and often gives students opportunities to set their own goals, reflect on their performance and self-reinforce based upon outcomes. The incorporation of a goal setting component along with specific skill training may make a difference in the lasting effects of the intervention as well as the influence on academic performance. Parent and teacher support of the intervention may also affect how well the intervention generalizes to academic areas. Self-management appeared to have the most positive and lasting effects on behavior and academic performance, however, self-monitoring and organization training were effective as well, especially when teachers were involved in planning and implementing the intervention. A support system for students with ADHD along with opportunities to set goal intentions could be the key to providing efficacious school-based self-regulation interventions.

The research on the efficacy of self-regulation to manage students' ADHD symptoms indicates the need to further explore its use in the classroom. The valuable, lasting effects of self-management specifically could underscore the need to incorporate self-regulation strategies in instructional planning, bring the focus back to the process of learning itself, and empower students to take responsibility for their behavior and academic performance. Proper support training of parents and teachers could result in amplifying the benefits of self-regulation interventions. The findings of further research could potentially lead to developments in instructional design, behavior management, and teacher education. The implications of the positive outcomes of self-regulation to manage ADHD in the classroom could significantly affect many aspects of education for teachers and families.

Limitations

Self-monitoring, organization training, and self-management have shown positive results on the behavior and academic performance of students with ADHD in multiple grade levels, but some evidence is lacking. Reports on the use of self-management with high school students

are sparse, with the majority of interventions for high schoolers focused solely on self-monitoring of on-task behavior. Studies on self-management with elementary students focused on students in third through fifth grade. The diagnosis of younger children with ADHD is a current focus (Centers for Disease Control and Prevention, 2016) pointing to a need for data on self-regulation interventions for younger students who exhibit ADHD related symptoms. The use of a relatively small sample size in some of the studies, which consisted of no more than seven participants, could lead to questions of validity (Cirelli et al. 2016; Ennis et al. 2018; Evans et al. 2009; Graham-Day et al. 2010; Gureasko-Moore et al. 2006; Harris et al. 2005; Rafferty et al. 2011; Sluiter et al. 2019). There is a need for data on larger samples and a greater diversity of student grade levels for more conclusive results.

Recommendations

Further research is needed to examine the efficacy of self-regulated interventions for students with ADHD. More in-depth research on how self-management interventions support students in high school and elementary school would clarify the effects of the intervention on students across grade levels. Organization training also needs to be examined more closely concerning how it affects students in high school, and if specific areas of focus influence the efficacy of the training. The importance of goal setting along with individual components of self-management should be explored in greater detail, as well as the role of parents and teachers in the effectiveness of classroom interventions. Finally, future studies should address the use of the intervention with larger sample sizes to better determine the effect of each intervention on students with different abilities and areas of need. The evidence on self-regulation as an intervention for students with ADHD is hopeful, but more research is needed to determine if these interventions are viable options for use in the classroom.

References

- Alsalamah, A. 2017. Use of the self-monitoring strategy among students with attention deficit hyperactivity disorder: A systematic review. *Journal of Education and Practice* 8(14): 118-125. <https://www.jstor.org/stable/43740439>.
- Brown, T. 2008. "ADD/ADHD and impaired executive function in clinical practice." *Current Psychiatry Reports* 1: 37-41. <http://doi.org/10.1007/s12618-009-0006-3>.
- Bruhn, A., McDaniel, S., & Kreigh, C. 2015. "Self-monitoring interventions for students with behavior problems: A systematic review of the current research." *Behavioral Disorders* 40(2): 102-121. <https://www.jstor.org/stable/43740439>.
- Centers for Disease Control and Prevention. 2016. "Attention-deficit/hyperactivity disorder (ADHD)." <https://www.cdc.gov/ncbddd/adhd/data.html>.
- Chaimaha, N., Sripetcharawut, S., Lersilp, S., & Chinchai, S. 2017. "Effectiveness of therapeutic programs for students with ADHD with executive function deficits." *Journal of Occupational Therapy, Schools, and Early Intervention* 10(4): 436-456. <https://doi.org/10.1080/19411243.2017.1359131>.
- Cirelli, C., Sidener, T. M., Reeve, K. F., & Reeve, S. A. 2016. "Using activity schedules to increase on-task behavior in children at risk for attention-deficit/hyperactivity disorder." *Education and Treatment of Children* 39(3): 283-300. <http://doi.org/10.1353/etc.2016.0013>.
- DuPaul, G. 2006. "School-based interventions for students with attention deficit hyperactivity disorder: Current status and future directions." *School Psychology Review* 36(2): 183-194. <http://doi.org/10.1080/10349120600716141>.
- DuPaul, G. J., Weyandt, L. L., & Janusis, G. M. 2011. "ADHD in the classroom: Effective intervention strategies." *Theory into Practice* 50: 35-42. <http://doi.org/10.1080/00405841.2011.534935>.
- Ennis, R. P., Lane, K. L., & Oakes, W. P. 2018. "Empowering teachers with low-intensity strategies to support instruction: Self-monitoring in an elementary resource classroom." *Preventing School Failure* 62(3): 176-189. <https://www.tandfonline.com/doi/full/10.1080/1045988X.2017.1408055>.
- Evans, S. W., Langberg, J. M., Schultz, B. K., Vaughn, A., Altaye, M., Marshall, S. A., & Zoromski, A. K. 2016. "Evaluation of a school-based treatment program for young adolescents with ADHD." *Journal of Consulting and Clinical Psychology* 84(1): 15-30. <http://doi.org/10.1037/ccp0000057>.

- Evans, S. W., Schultz, B. K., White, L. C., Brady, C., Sibley, M. H., Van Eck, K. 2009. "A school-based organization intervention for young adolescents with attention-deficit/hyperactivity disorder." *School Mental Health 1*: 78-88. <https://doi.org/10.1007/s12310-009-9009-6>.
- Fuggetta, G. P. 2006. "Impairment of executive functions in boys with attention deficit/hyperactivity disorder." *Child Neuropsychology 12*(1): 1-21. <http://doi.org/10.1080/09297040500203418>.
- Gaastra G.F., Groen Y., Tucha L., & Tucha O. 2016. "The effects of classroom interventions on off-task and disruptive classroom behavior in children with symptoms of attention-deficit/hyperactivity disorder: A meta-analytic review." *PLoS ONE 11*(2): 1-19. <https://doi.org/10.1371/journal.pone.0148841>.
- Graham-Day, K. J., Gardner, R., III, & Hsin, Y. W. 2010. "Increasing on-task behaviors of high school students with attention deficit hyperactivity disorder: Is it enough?" *Education and Treatment of Children 33*(2): 205–221. <http://doi.org/10.1353/etc.0.0096>.
- Guderjahn, L., Gold, A., Stadler, G., & Gawrilow, C. 2013. "Self-regulation strategies support children with ADHD to overcome symptom-related behavior in the classroom." *ADHD Attention Deficit and Hyperactivity Disorder 5*(4): 397–407. <http://doi.org/10.1007/s12402-013-0117-7>.
- Gureasko-Moore, S., DuPaul, G. J., & White, G. P. 2006. "The effects of self-management in general education classrooms on the organizational skills of adolescents with ADHD." *Behavior Modification 30*(2): 159–183. <https://doi.org/10.1177/0145445503259387>.
- Gureasko-Moore, S., DuPaul, G. J., & White, G. P. 2007. "Self-management of classroom preparedness and homework: Effects on school functioning of adolescents with attention deficit hyperactivity disorder." *School Psychology Review 36*(4): 647–664.
- Harris, K. R., Friedlander, B. D., Saddler, B., Frizzelle, R., & Graham, S. 2005. "Self-monitoring of attention versus self-monitoring of academic performance: Effects among students with ADHD in the general education classroom." *The Journal of Special Education 39*(3): 145–157. <https://doi.org/10.1177/00224669050390030201>.
- Harrison, J. R., Evans, S. W., Baran, A., Khondker, F., Press, K., Noel, D., Wasserman, S., Belmonte, C., & Mohlmann, M. 2020. "Comparisons of accommodations and interventions for youth with ADHD: A randomized controlled trial." *Journal of School Psychology 80*: 15-36. <https://doi.org/10.1016/j.jsp.2020.05.001>.
- Joseph, L. M., & Eveleigh, E. L. 2011. *A review of the effects of self-monitoring on reading performance of students with disabilities*. Los Angeles: Sage Publications.
- Langberg, J. M., Epstein, J. N., Urbanowicz, C. M., Simon, J. O., & Graham, A. J. 2008. "Efficacy of an organization skills intervention to improve the academic functioning of students with attention-deficit/hyperactivity disorder." *School Psychology Quarterly 23*(3): 407-417. <http://doi.org/10.1037/1045-3830.23.3.407>.
- Lienemann, T. O., & Reid, R. 2008. "Using self-regulated strategy development to improve expository writing with students with attention deficit hyperactivity disorder." *Exceptional Children 74*(4): 471–486. <http://doi.org/10.1177/001440290807400404>.
- Morrison, C., McDougall, D., Black, R. S., & King-Sears, M. E. 2014. "Impact of tactile-cued self-monitoring on independent biology work for secondary students with attention deficit hyperactivity disorder." *Journal of College Teaching & Learning 11*(4): 181–196. <http://doi.org/10.19030/tlc.v11i4.8856>.
- Power, T. J., Watkins, M. W., Anastopoulos, A. D., Reid, R., Lambert, M. C., & DuPaul, G. J. 2017. "Multi-informant assessment of ADHD symptom-related impairments among children and adolescents." *Journal of Clinical Child & Adolescent Psychology 46*: 661–674. <http://doi.org/10.1080/15374416.2015.1079781>.
- Rafferty, L. A., Arroyo, J., Ginnane, S., & Wilczynski, K. 2011. "Self-monitoring during spelling practice: Effects on spelling accuracy and on-task behavior of three students diagnosed with attention deficit hyperactivity disorder." *Behavior Analysis in Practice 4*(1): 37–45. <http://doi.org/10.1007/BF03391773>.
- Reddy, L. A., Cleary, T. J., Alperin, A., & Verdesco, A. 2017. "A critical review of self-regulated learning interventions for children with attention-deficit hyperactivity disorder." *Psychology in the Schools 55*(10): 609-628. <http://doi.org/10.1002/pits.22142>.
- Reid, R., Trout, A. L., & Schartz, M. 2005. "Self-regulation interventions for children with attention deficit/hyperactivity disorder." *Exceptional Children 71*(4): 361–377.
- Sluiter, M. N., Groen, Y., de Jonge, P., & Tucha, O. 2020. "Exploring neuropsychological effects of a self-monitoring intervention for ADHD-symptoms in school." *Applied neuropsychology. Child 9*(3): 246–258. <http://doi.org/10.1080/21622965.2019.1575218>.
- Schramm, S. A., Hennig, T., & Linderkamp, F. 2016. "Training problem solving and organizational skills in adolescents with attention-deficit/hyperactivity disorder: A randomized controlled trial." *Journal of Cognitive Education and Psychology 15*(3): 391-411. <http://doi.org/10.1891/1945-8959.15.3.391>.
- Spencer, T. J., Heiligenstein, J., Biederman, J., Faries, D., Kratochvil, C., Conners, C. K., et al. 2002. "Atomoxetine in children with ADHD: Results from two randomized, placebo-controlled studies." *Journal of Clinical Psychiatry 63* 1140–1147. [http://doi.org/10.1016/s0006-3223\(02\)01671-2](http://doi.org/10.1016/s0006-3223(02)01671-2).

- Webber, J., Scheuermann, B., McCall, C., & Coleman, M. 1993. "Research on self-monitoring as a behavior management technique in special education classrooms a descriptive review." *Remedial and Special Education* 14(2): 38-56. <http://doi.org/10.1177/074193259301400206>.
- Vogelgesang, K. L., Bruhn, A. L., Coghill-Behrends, W. L., Kern, A. M., & Troughton, L. C. 2016. "A single-subject study of a technology-based self-monitoring intervention." *Journal of Behavioral Education* 25(4): 478–497. <http://doi.org/10.1007/s10864-016-9253-4>.
- Wills, H. & Mason, B. A. 2015. "Implementation of a self-monitoring application to improve on-task behavior: A high-school pilot study." *Journal of Behavioral Education* 23(4): 421-434. <http://doi.org/10.1007/s10864-014-9204-x>.
- Zimmerman, B. J. 2000. "Attaining self-regulation: A social cognitive perspective." In M. Boekaerts, P. R. Pintrich, & M. Zeidner (Eds.), *Handbook of self-regulation* (p. 13–39). Academic Press. <https://doi.org/10.1016/B978-012109890-2/50031-7>.
- Zimmerman, B. 2002. "Becoming a self-regulated learner: An overview." *Theory into Practice* 41(2): 64-70. http://doi.org/10.1207/s15430421tip4102_2.

The Concept of Vernacular Architecture in Contemporary Museum Education in Romania

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ABSTRACT: The subject of this research paper, the open-air museum, we consider that especially in contemporaneity it becomes a main actor on the cultural scene, and through the current study we aim to create extensions of this type of exhibition, extensions that meet the needs of the general public. Moreover, through this paper we aim to systematize the fundamental pillars of vernacular architecture and heritage, but this time, not treating the subject in an exhaustive way, but pointing out its key elements through a series of projects that are currently work in progress. Although through this study we aimed to interrogate only a certain type of exhibition, in this case the open-air museum, in reality we came to new interrogations involving actors from new areas of expertise, areas that we did not anticipate very clearly at the beginning of our research. Thus, we can say that at this moment, the research includes three pillars of work, pillars that we have built based on a methodology for investigating a type of architecture, perspectives based on which we try to build the body of this research. Of course, they are in a process of transformation, based on examples and certain typologies, so that we can answer questions and, why not, launch new questions.

KEYWORDS: vernacular, architecture, museum education

Introduction

The village is the “main form of settlement” of the Romanians (Ionescu 1971, 11), and centuries of evidence can still prove it. For example, “statistics from 1930 show that in Romania there were 14,163 villages compared to 175 urban centers, the inhabitants of the villages representing 81% of the total population of the country (...) On June 1, 1967, although low in number after the intense urbanization process carried out in Socialist Romania, the rural population still represented the majority: 61.3%, the number of villages being relatively the same: 14,203” (Ionescu 1971, 11).

For today’s architects, the concept used was generally used “to designate popular constructions, made by people whose main activity is not necessarily in the field of constructions” (Romanian vernacular architecture 2021, Arhimania.ro). It is based on an empirical knowledge of materials, gained over time, through repeated trials (and failures). Knowledge that is transmitted from generation to generation, orally (Romanian vernacular architecture 2021, Arhimania.ro). The concept of vernacular architecture developed gradually, but in the museum area no emphasis was placed on it, except in certain types of exhibitions, such as open-air or ethnographic museums. Therefore, we cannot say that a museum education has been developed to promote vernacular architecture in all museums, but rather in specific ones.

Extensions of museum education

Stricto sensu, we consider that it should be noted that this term has become much more clearly defined over time. Basically, if before it designated both the type of architecture in rural and urban areas, nowadays, this term is used mainly for the first case, in this case, for rural areas (Vernacular architecture 2021, Scribd.com)

Lato sensu, regarding the open-air museum and vernacular heritage, we note that “UNESCO, ICOM and other organizations seek to encourage the patrimonialization of knowledge and the ability to produce traditional crafts” (Nițulescu 2019, 7), and this can only make us happy, because by promoting these values, the open-air museum can be a living space.

According to specialists, “in the mountain regions there are villages with scattered households; in the hilly regions and along the wide valleys, especially in the last century, the village with scattered households, with a half-pastoral, half-agricultural character, was conquered, while in the plain regions, as well as in narrow meadows or bottoms the village with houses and households gathered developed within the valleys” (Ionescu 1971, 11).

Also, if in the 19th century monuments were an attraction reason for a relatively small group of initiates, the interest of society grew rapidly, until their identification with one of the purposes of modern tourism. At the same time, there has been a diversification of the way of reporting to the monument, which also includes its treatment as a museum exhibit, mainly related to educational purposes and conservation considerations. On the other hand, the recognition of architectural production as a field belonging to the great family of arts, par excellence protected in museums, in turn favored the inclusion of monuments in museums” (Roșiu 2002, 128-129).

Another important element to discuss is the fact that “the Romanian people have created their own architecture, synthesis of possibilities, reflection of tastes and sensibilities. In all its manifestations, in all these palpable testimonies of culture, we feel the permanence and presence of man, as seeds of thought” (Lăzărescu, Cristea and Lăzărescu 1972, 9).

We agree with the statement made by Prof. Augustin Ioan, in the work “khora” (Ioan 1998, 1977, 31), according to which “in the process, of course, a critique of comparativism will have to be produced”, or in the case of the present paper, the question arises what we can understand by this type of criticism, since its methods can bring ample debates. Or how, in our context, we will invoke this process as a preliminary stage of the 3 practical projects, and realized in the mirror, which we started, as we only aim to further promote their sustainable development by comparison and development.

Examples of good practices can be perceived as a model both in terms of housing and architectural as well. Basically, the exposure of the village becomes a fair one, from the moment it is based not only on the use of the standard object, but also on certain common laws brought back to life.

Taking into account that “on the territory of our country, archeological excavations identify numerous human settlements dating back to the Neolithic period, some of them constituted as simple agglomerations, others with an obvious preoccupation of organization” (Pănoiu 1977), we will remember that there are several types of authentic settlements.

At the same time, “the immense mantle of the forests that cover the Romanian land was the main source of raw material of the local architecture. However, it would be wrong to believe that the architecture on our territory was exclusively wooden, being enough to think about the vast ensembles of stone architecture of the local architecture” (Petrescu 1974).

Following the drawing of these guidelines on the concept of vernacular architecture, we can only include this concept within the idea of museum education.

According to the doctrine, “museum pedagogy has as object of interrogation the identification and validation of some strategies that would lead to the maximization of the formative virtues of the museum’s space, and as a goal it aims to stimulate the interaction on the educational line between the museum and the school, to train specialists, but also categories of public for the valorization of the educational potential brought by this cultural environment” (Cucoș 2014, Tribunainvatamantului.ro). At the same time, we add the fact that the educational and didactic values of the museum are:

- purchase;
- conservation;

- research;
- value (Cucoş 2014, Tribunainvatamantului.ro).

Beyond the typicality of a museum, museum education addresses a wide audience, although at first glance we might be tempted to believe that the educational programs designed are meant to require only the presence of a young and very young audience.

The museum educator has the role of realizing, implementing and programming the workshops meant to come to the aid of his public, programs that will really respond to the needs of the majority of them. For example, if a program is implemented for teenagers, in order to be complete, we will add annexes to help its completion, annexes for people with special abilities, as all activities should be designed to be inclusive.

Projects implemented by museum educators are often carried out over a determined period of time, but this is not beneficial, as it is not possible to talk about learning skills in a process useful to students and, at the same time, the information cannot really be fixed. Of course, for parents or guardians, a workshop organized from time to time is a very good solution, but not for young participants who may be left with truncated, incomplete information.

If some programs are free, for others, there are certain rates or even subscriptions that encourage active participation to a quality non-formal education. Also, some projects can be carried out in collaboration with various institutions, and thus the trainers can be not only museum educators, but also various actors of the contemporary cultural scene.

Most of the time, museum education is carried out within the museum, rarely talking about another setting of these events, as the museum educator often uses exhibits or concepts exhibited in the museum in his speech, to implement new projects regarding the museum education.

The challenge for the contemporary museum educator is to constantly find new ways to create a “text” that can be deciphered for the museum’s public which is diversified, and most of the time it is approached according to the age criterion. Basically, the museum educator becomes a translator of the exhibited works, of the curatorial discourse and, last but not least, of some programs that are specific to the typology of the museum in which it can be framed or not. Thus, we can say that it is often challenged to bring new nuances, new contrasts.

Also, another challenge is to retain the public, involving actors from various departments, such as:

- Programs;
- Conservation;
- Curatorate;
- PR, Marketing, Communication;
- Documentation Centers;
- Accounting;
- Logistics Service;
- Legal Department.

Therefore, a museum educator becomes an arbitrator, a mediator and between all the departments within a museum. In other words, he needs to know the involvement of other departments and, at the same time, bring them together to offer a package of sources for the public to help him become more familiar with the museum world, a world in which endless worlds of the past, present and, why not, from the future, intertwine.

In the conception of the general public, the museum is perceived as a place of the old, of the archaic, and this fact can help us to better implement museum education programs based on the concept of vernacular. Moreover, we believe that this vision can make real contributions to open-air museums.

We might wonder why man is tempted to perceive the concept of museum as synonymous with the past and, implicitly, history, and this fact we do not think is foreign to

any geographical space. Of course, a first aspect could be the fact that among the oldest museums there were certain spaces really full of history, but we must not forget that museums are of several typologies, and those in Romania, according to art. 14, paragraph (1) of the Law on Museums and Public Collections no. 311 of July 8, 2003, are “museums and public collections of national importance are museums and public collections of public or private law, who hold in their museum patrimony goods of exceptional value, significant at national level for:

- History;
- Archeology;
- Ethnology;
- Art;
- Archiving;
- Science;
- Technique;
- Literature;
- Cinematography;
- Numismatics;
- Philately;
- Heraldry;
- Bibliophilia;
- Cartography;
- Epigraphy.

Thus, although we are tempted to treat the idea of a museum as a machine of time, we must know that today we can find a multitude of museums, which are more or less unique. Thus, from the Banana Museum, we can reach the The Museum of Broken Relationships. Basically, there is a varied typology of exhibits that do not refer only to the idea of chronology.

The concept of vernacular architecture, on the other hand, can be used in contemporary museum education in Romania as a review of customs, rather than as an object of transposition into the past, as a spare part for an alternative to urban life, than as an utopian thing placed in the distant past. At the same time, it can be used as a catalyst for architects everywhere who want to adhere to a sustainable lifestyle for their clients.

Conclusions

The open-air museum, along with other types of museums, has the mission of non-formal education, and, moreover, the open-air museum has a social component with an impact, perhaps much greater, and one of our proposals aims to organize unique cultural installations and events, such as media art, performance, etc., as we want the open-air museum to reflect a reality: the ephemeral life of the village vs. the components of the contemporary world specific to the urban environment.

We believe that the open-air museum is becoming a major player on the cultural scene, due to the positioning of the exhibits in a context that offers greater security in this period which is a real challenge.

Moreover, since we cannot deny the fact that many times, “when you enter the museum, the conventional or natural borders disappear and when we talk about civilization, an invitation is made to a huge round table of all the people of the planet” (Stoicescu 1983, 10), we would like to invite to reflection and, at the same time, to a future dialogue regarding the role of this type of museum, because as noted in the past, out of the desire to make known the museum heritage, we tried to “highlight the components and not only within the exhibitions” (Bovo-Drăgan 2007, 331).

References

- Bovo-Drăgan, Elisabeta. 2007. *Din colecțiile muzeului municipiului București. Materiale de istorie și muzeografie XXI*, Muzeul Municipiului București Publishing House, Vol. XXI.
- Cucoș, Constantin. 2014. "Educația muzeală – scop și valențe formative [Museum education - purpose and formative values]." *Tribuna Învățământului*. <https://tribunainvatamantului.ro/educatia-muzeala-scop-si-valente-formative/>.
- Ioan, Augustin. 1977; 1998. *Khora*. Bucharest: Paideia Publishing House.
- Ionescu, Grigore. 1971. *Arhitectura populară în România [Popular architecture in Romania]*. Bucharest: Meridiane Publishing House.
- Law on museums and public collections no. 311 of July 8, 2003
- Lăzărescu, Cezar, Cristea Gabriel and Elena Lăzărescu. 1972. *Arhitectura românească în imagini [Romanian architecture in images]*. Bucharest: Meridiane Publishing House.
- Nițulescu, Virgil Ștefan. 2019. *Revista Muzeelor [Museum Magazine]*. No. 1.
- Pănoiu, Andrei. 1977. *Din arhitectura lemnului în România [From wood architecture in Romania]*. Bucharest: Tehnică Publishing House.
- Petrescu, Paul. 1974. *Arhitectura țărănească de lemn din România. Comori de artă din România [Wooden peasant architecture in Romania. Art treasures from Romania]*. Bucharest: Meridiane.
- Romanian Vernacular Architecture. 2021. „Arhitectura vernaculară românească [Romanian Vernacular Architecture]. *Arhimania.ro*. 2021.” <http://arhimania.ro/pin/arhitectura-vernaculara-romaneasca/>.
- Roșiu, Liliana. 2002. *Reinventarea spațiului muzeal. De la colecție la mediul urban*. Bucharest: “Ion Mincu” University Publishing House.
- Stoicescu, Cleja Claudia. 1983. *Sub semnul muzeului [[Under the sign of the museum]*. Bucharest: Sport-Turism Publishing House.
- Vernacular Architecture. 2021. „Arhitectura vernaculară [Vernacular Architecture].” *Scribd.com*. <https://www.scribd.com/doc/455338/Arhitectura-Vernaculara>.

Ghana's Public Diplomacy under Kwame Nkrumah

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ABSTRACT: The concept of public diplomacy is one of the trending approaches in modern international relations and diplomacy. Communicating and engaging effectively with the foreign public in a particular nation by a government to achieve its foreign policy objective is every government's goal. The field of public diplomacy as an academic discipline in Ghana in particular and Africa has not received much attention compared to the Western World. This article attempts to bridge this gap by opening Ghana's public diplomacy to academic scrutiny that has, as yet, been underdeveloped. This paper's principal objective is to bring to light the public diplomacy instruments used by the indefatigable first president of Ghana, Dr. Kwame Nkrumah, to propagate his pan-Africanism foreign policy in the 1960s against capitalism and communism after Ghana's independence. It also looks briefly at Nkrumah's general foreign policy agenda through the lens of public diplomacy. Methodologically, it uses content analysis of documents to explore how Nkrumah adopted the public diplomacy tactics during his presidency to sell his foreign policy. The article explores the topic under the theoretical framework of Golan's Integrated Public Diplomacy model. It concludes that public diplomacy under Kwame Nkrumah should be the foundation and ignite its incorporation into Ghana's tertiary education and current foreign policy strategies.

KEYWORDS: public diplomacy, communication, Kwame Nkrumah, pan-Africanism, foreign policy

Introduction

International public perception of a country is crucial for the success of its foreign policy agenda, and therefore public diplomacy strategies are necessary instruments to engage target foreign publics for positive perception and image of a nation. This idea was not much of a concern for the newly decolonised African states, especially during the cold war, as these small countries were more focused on internal politics and restructuring their new countries. Melissen (2005) notes that public diplomacy was not a primary concern in developing countries during the Cold War. However, this assertion may not be entirely accurate as the case of Dr. Kwame Nkrumah of Ghana proves otherwise. The father of Ghana's model of pan-Africanism, Kwame Nkrumah, was more concerned about his foreign policies than internal affairs of the country (Asante K. 2014) and believed in the later stage of his presidency that the only way to achieve his foreign policy is to change its strategy and direction. Instead of going direct to engage his fellow African leaders, he instead preferred to engage the publics of these African nations since he realised the importance of foreign public opinion in international statecraft.

Research on the topic began with a hypothesis that Ghana has no trace of historical public diplomacy practice. As the research progressed in pursuit of scholarly evidence to uphold this premise, it became evident from the relevant literature that Ghana has a historical practice of public diplomacy and had a well-established agent to manage it. There might be varying literature delving into the Ghanaian concept and Africa in general in the coming years.

Furthermore, the author acknowledges the limited literature available on Ghanaian public diplomacy and therefore relies more on the historical accounts of the presidency of Dr. Kwame Nkrumah by a number of research-based materials. Mediated public diplomacy dimension among the three dimensions of the integrated model of public diplomacy serves as the philosophical paradigm of exploring the topic. Nkrumah was concerned about the media and broadcasting as a short-term strategy for foreign audiences' engagement to build medium and long-term relations.

The article examines the historical evolution of Ghanaian public diplomacy during the administration of Kwame Nkrumah and how Nkrumah used public diplomacy as a critical instrument of Nye's soft power during the era of decolonisation, African liberation and unity, and the cold war. It is a historical assessment of the varied instruments that the Bureau of African Affairs (BAA) employed to tell 'Ghana's story to Africans in the continent' and its frontiers. Dr. Kwame Nkrumah, who, together with some other freedom fighters, fought for Ghana's independence, became its first Prime Minister prior to independence and later in 1960 its first president after the country became 'Republic' on 1 July 1960 (Asante K. 2014). Furthermore, he was indisputably the most influential political leader and philosophical thinker in Africa during that period (Baah-Duodu 2019).

Historically, Ghana's diplomacy and Diplomatic Missions began in 1955 before the independence in 1957 (Asante K. B. 2017; Brandful 2014). Ghana, then Gold Coast in 1955, admitted for the first time ten officers among the hundreds of applications after advertisement into the about to be formed diplomatic Service. In Brandful (2013) opinion, these officers, popular known as the Group 10 (G10) in the Ghanaian diplomacy parlance, became the core of the nation's fledgling diplomatic Service. The G10 had crash training in London at the British Foreign and Commonwealth Office (Baah-Duodu 2019). They were the first Ghanaian Diplomats to represent and project the country's image and reputation on the international stagecraft after the independence. The then Prime Minister of Ghana and later president, Dr. Kwame Nkrumah, met the G10 and shared his visions on international relations (Brandful 2013, 27). After its independence, Ghana's diplomatic missions were established by Dr. Kwame Nkrumah to deepen its relations with the selected states (Asante 2017). Diplomacy encompasses public diplomacy; hence, understanding Ghanaian diplomacy's genesis is a step to grasp its philosophical underpinnings.

The concept of Public Diplomacy

It worth noting that a fruitful exploration of Ghana's public diplomacy demands an account of the already existing literature in the field, which will serve as the bedrock and framework of critically examining the discourse. Public diplomacy is not a new concept in the realm of international relations and communication. The ability to influence foreign publics as an essential ingredient of public diplomacy long pre-dates the existence of the term itself (Hunt 2015, 25). Some public diplomacy scholars also see it as putting an 'old wine in a new bottle' (Melissen 2005, 3). Moreover, the importance of public opinion in foreign nations and the cultivation of the image of a country goes far back to ancient Greece and Roman times, even with some references in the Bible (Kunczik 2009, 771). Thus, the phenomenon of nations' image cultivation, propaganda, and other activities within the realm of public diplomacy are as old as diplomacy itself, argues Melissen. However, public diplomacy has gained considerable popularity in research in the last two decades and has become a crucial instrument in foreign policy implementation, especially in Western nations (Ociepka 2017).

Numerous literature reviews of public diplomacy show that Nye's (2004, 2011) concept of 'soft power' is among the foundations of the discipline. It is universally acclaimed that part of the public diplomacy story is understanding Nye's soft power (Cull 2019). Soft power is "getting others to want the outcomes that you want – co-opt people rather than coerces them" (Nye 2004, 5). It is not only about influence, says Nye, but it is also the ability to attract. The attraction, therefore, leads to acquiescence. Soft power can also be termed "attractive power" (Nye 2004, 6). It also can shape and influence the preferences of others. Nye believes that soft power may help a nation secure the support of foreign audiences for its foreign policy by means of the attractiveness of its culture, values, and international policy (Golan 2017). Nye adds that soft power combined with hard power produces smart power – combining military power and soft power. A nation cannot have one without the other and vice versa. Fletcher (2016) puts it nicely that a country

needs boots on the ground and books in the hand. Hunt (2015) also holds that Nye's concept has an enormous impact on the practice of diplomacy as his ideas have been widely harnessed into the conventional wisdom of foreign ministries. Nye's term is arguably the most referenced phrase in the public diplomacy lexicon, although it does not mean that all public diplomacy practitioners and scholars agree on its definition and application (Snow 2020, 4). Therefore, public diplomacy has relation with power. It has 'soft power' (Snow 2009).

The public diplomacy concept has no universally agreed definition. Many scholars of different related fields have come out with numerous definitions. Golan and Yang (2015) affirm this assertion by stating that despite a growing body of literature on public diplomacy, the confusion about what the term really means and how it differs from international public relations still exists. Even the US, which is considered the 'father' of public diplomacy, has not reached a single consensus definition of the concept over the last fifty years (Snow 2015, 80). For Cull (2019), it is diplomacy through foreign public engagement. Golan and Yang (2015, 2) see it as "the management of communication among diplomatic actors, including nations and non-state actors, which have specific informational or motivational objectives toward reaching the foreign public through various communication channels to promote national interest". For other scholars, it is government-sponsored activities and communications with the sole aim of foreign publics (Fullerton and Kendrick 2017). Williams (2012) also defines it as the process of pursuing a nation's foreign strategic objectives, while Rugh (2014) defines it as a function of a government. For this paper's purpose, public diplomacy is defined as a form of diplomatic relations that focuses on persuading, influencing, and winning the minds and hearts of another country's public. And through indirect methods such as educational exchange programmes, culture, health by a government or multinational companies for political goals. The stakeholders in this form of diplomacy are the state and the non-state actors such as non-governmental organisations (NGO's) and other international corporations.

The term was first used by an American Diplomat Edmund Gullion in 1965 to distinguish the concept from propaganda during the Cold War (Berridge 2015; Cull 2019; Cull 2020; Hunt 2015; Fullerton and Kendrick 2017; Golan and Yang 2015; Rugh 2014; Melissen 2005; Wang and Yang 2020). Therefore, it is not surprising that modern public diplomacy and its discourse are dominated by the United States' experience and literature (Melissen 2005). Some scholars argue that the concept of public diplomacy is a product of war (Hunt 2015). Eytan Gilboa argues that while many scholars and practitioners have examined and explored public diplomacy, there is, however, no "overarching theory, but rather contributions from multiple disciplines" as cited in (Cull 2019, 2). Therefore, it lacks a unique theoretical underpinning peculiar to the field (Golan 2017). This is one of the major challenges facing the discipline. However, scholars of the field have begun to develop theoretical paradigms. Among them are Golan's (2013) *Integrated Model of public diplomacy* and Fullerton and Kendrick's (2017) *Model of Country concept of public diplomacy*. This article uses the former as a theoretical framework for the exploration of Ghana's public diplomacy under its first president Dr. Kwame Nkrumah.

The integrated model argues that examination of public diplomacy should be done as a strategic management approach (Golan and Yang 2015, 3). Put, a combination of public relations practice and tactics with public diplomacy objectives and results (Snow 2015). The model has three layers of engagement, namely mediated public diplomacy, nation brands/reputation, and relational public diplomacy (Golan 2015). The mediated dimension is a short-term media activity by the government aiming to influence international media coverage. This layer focuses on adopting tactics to manage the content of foreign news coverage. The other two levels of nation-branding/reputation and relational deal with medium and long-term strategic engagement approaches. Golan argues that fruitful mediated public diplomacy efforts are necessary for a nation's successful nation-branding or reputation management.

The public diplomacy discipline encompasses many tenets from other fields such as public relations, mass communication, public policy, political science, marketing, and diplomatic studies

(Golan 2017; Golan and Yang 2015; Fullerton and Kendrick 2017; Snow 2009; Strömbäck and Kioussis 2020). Since the introduction of the concept by Gullion, the discipline has evolved to include other private stakeholders in the practice of public diplomacy (Wang and Yang 2020). This evolution has often been termed the ‘new public diplomacy’ (Hunt 2015, 18; Melissen 2005). The new public diplomacy involves both private and state actors and the usage of the technological tools of communications in the modus operandi of public diplomacy campaigns. The new public diplomacy takes shape after the 11th September 2001 attack on the US (Taylor 2009), and as Melissen introduces it in his work *The New Public Diplomacy*.

Some scholars also argue that the concept of public diplomacy is nothing special; it is rebranding white propaganda (Berridge 2015, 199). Furthermore, it is a subset and postmodern propaganda. One of the proponents of this argument, Berridge (2015), defines the discipline as the modern name for white propaganda aimed chiefly at international audiences. Thus, irrespective of the label, the central element remains. Rugh (2014, 10) also adds that during the Cold War, Americans wanted to distinguish their overseas activities from the negative connotations of ‘propaganda’ of being deceptive employed by the Germans and the Soviet Union hence the new phrase ‘public diplomacy’ by Gullion. In his analysis of the term’s evolution, Cull (2020) also connotes that although Gullion was the first to use the term in modern time, the old term (propaganda) has accumulated many negative connotations. In fact, Cull believes the earliest use of the phrase ‘public diplomacy’ dates back to 1856 in a piece from London *Times* (p.13). Berridge and Rugh, therefore, state that the United States Information Agency (USIA) was established in 1953 for overseas white propaganda (public diplomacy).

Berridge again rejects the notion by some public diplomacy scholars and practitioners that the concept is different from propaganda and argues that it is not a new activity rather a rebranded propaganda. Public diplomacy does propaganda indirectly, making it different from black propaganda. I cannot entirely agree with the stance of Berridge because public diplomacy should not be equalised to the traditional propaganda, which had scrupulous tools of making its audience believe what was not true in reality. Traditional propaganda is only a one-way affair of communication, while public diplomacy is a two-way symmetrical communication and relationship building on engagement and dialogue with foreign publics. Melissen (2013) sees such views emanating from the traditionalists and sceptics within the diplomatic arena. Commenting on this debate, Melissen agrees with other contemporary scholars on public diplomacy who assert that modern public diplomacy is different from propaganda. The term ‘public diplomacy’ found its way into the foreign policy discourses and circles in the 1990s (Cull 2020, 16), and many nations began to be interested in the concept and practice for various reasons even long before the 9/11 attack (Melissen 2005). However, the style, targets, and vehicles employ to make public diplomacy vary enormously from country to country.

Kwame Nkrumah’s Foreign Policy

Public diplomacy is a significant component in foreign policy implementation, as the literature in the concept depicts. Besides, Melissen (2005) argues that sound foreign policies greatly support public diplomacy practice. Therefore, to successfully explore public diplomacy of Ghana under Nkrumah, it is necessary first to analyse some of his central foreign policies as president of the nation. During Nkrumah’s presidency, Ghana’s foreign policy and relations were guided by systematically expressed notions and principles rather than a set of national concerns as it were in other African countries in that era (Gerits 2015).

Diplomacy and foreign policy under Dr. Nkrumah’s administration were at the latent stage. Being the first black African country to obtain independence brought challenges to nation-building and foreign relations (Brandful 2013). Urgency mixed with excellence became some of the core ingredients that motivated the first constitutional government to take action during that period. Two main factors influenced Nkrumah’s foreign policy and diplomacy: the Cold War and the

decolonisation of Africa (Boafo-Arthur 1999; Etsiah 1985; Thompson 1969; White 2003). The president made his Foreign Policies clear to the few Ghanaian diplomats assembled at the presidency before their departure to the various assigned posts abroad. The central foreign policies were: to transform Ghana from a colonial territory to an independent and prosperous nation; Ghana to lead the fight to eliminate colonial rule and administrations in the entire continent of Africa and unite it (Brandful 2013; White 2003). The government also introduced the policy of non-alignment to put the country in a neutral position during the Cold War of political ideologies between the West and the East (Asamoah 2014). Ghana is among the founding fathers of the Non-Alignment Movement (NAM). This foreign policy also enables the state to get developmental assistance from both sides of the blocs (Baah-Duodu 2019; Gerits 2015). Under this regime, the president also formulated the policy of good neighbourliness to have cordial relations with the country's neighbouring nations and place Ghana as the sub-Saharan region leader in particular and Africa in general (Asamoah 2014; Brandful 2013).

His foreign policy of decolonisation of the African continent was firm in him as a pan-Africanist and manifested in his famous Ghana's independence speech (Spies, 2018; White, 2003). He emphasised in the speech that 'the independence of Ghana is meaningless unless it is linked up with the total liberation of Africa' (Thompson 1969). It is said that 'Kwame Nkrumah is Africa and Africa is Kwame Nkrumah' in his heydays (White 2003, 100). His famous dictum 'the black man is capable of managing his own affairs' propelled him to challenge other African leaders to unite and take control of their various countries (Baah-Duodu 2019).

As foreign policies and diplomacy of a country are determined, among other things, by its geopolitical locations, history, and ideological orientation of its leader, Ghana is not exempted from this theory. In the sixties, its foreign relations and diplomacy were influenced by its first president Kwame Nkrumah (Brandful 2013). His Foreign policy of championing Africa's decolonization put Ghana in the limelight on the international stage both within the region and continent, respectively. Ghana's role in Africa within these periods was significant. The policy of accelerated agenda for emancipation and development in the mid-sixties under Nkrumah and complete political emancipation and unification of Africa was Ghana's main foreign relations objective (Brandful 2013; Asamoah 2014). Therefore, the country's foreign policy and diplomacy were Africa-centric, anti-racism (against the apartheid system in South Africa), neutrality (NAM), good neighbourliness, adherence to principles, and charters of international organisation Ghana belongs (Gebe 2008).

Nkrumah's pan-Africanism foreign policy was made up of his political and philosophical ideologies of anti-colonialism and 'African personality backed by the historical theory of slavery and African unity mission (Gerits 2015). Nkrumah was so fascinated with pan-Africanism to the extent that it is said that 'Africa was Nkrumah and vice versa. For him, 'Africa was for Africans' and called for no interference from the superpowers of the Cold War (Thompson 1969). Thus, his foreign policy of non-alignment. The Non-alignment policy was a way of driving away from the ideological war of winning the minds and hearts during the cold war, argues Thompson. This policy enabled Nkrumah to engage both the West and East for a developmental project of his country, although it is strenuous to be neutral in practice. He believed that Africa's involvement in the war would instead create huge problems among African nations, including conflicts in the continent.

Nkrumah's public diplomacy (Discussion)

The three leading major powers in the 1960s, the US, the Soviet Union, and Europe, invested heavily in their foreign communications with the rest of the world during the Cold War (Melissen 2005, 4). Nkrumah also did invest in his foreign policy implementation strategies as the country had enough funds and even gave financial assistance to other African countries like Guinea (Botwe-Asamoah 2005). There is a general view that public diplomacy strategies are

primarily aimed at establishing positive public opinion in a foreign nation that will help the target-country political and governmental leaders to make decisions that are in line and supportive of the foreign policy goals of the advocating country (Melissen 2005, 15). Ghana's public diplomacy was in line with Melissen's assertion. Nkrumah concluded that the best option to get other African leaders to support his pan-Africanism foreign policy is through the influence of the public opinion of their citizenry (Gerits 2015).

Ghana's diplomacy after attaining the republican status on 1 July 1960 became more assertive through the instrumentality and foreign policy vision of its leader Nkrumah, argues Gerits. Nkrumah used his public diplomacy strategy to carry out its foreign policy of non-alignment during the cold war. At the later stage, Nkrumah realised the role and importance of mass communication in the implementation of foreign policy, especially foreign public opinion. In one of his UN speeches, he affirmed how international public opinion had compelled states to operate in a more ethically acceptable manner (Gerits 1956).

The Congo political crisis in 1960 was the turning point of Ghana's public diplomacy programme as the aftermath of the crisis changed the direction of Nkrumah's strategies of foreign policy implementation (Gerits 2015). Public diplomacy of Ghana was now redirected towards specifically the African publics in the continent. The BBA believed that communicating with the targeted publics in the African continent was the best approach since the foreign publics in Africa had to convince their respective political leaders to support the African unity policy of Nkrumah (Thompson 1969). The president of Ghana came to the realisation that unifying the entire continent demands a clear and coherent ideological message. Additionally, these messages should be presented more appealingly and emotionally to the target African publics. Therefore, since 1960, the Bureau of African Affairs responsible for Ghana's public diplomacy activities focused more on engaging the target audiences in the other African countries, both independent and dependent (Asamoah 2014).

The government of Ghana on 7 October 1961 assembled all the heads of Ghana's diplomatic missions in Africa in crucial meetings in Accra, to discuss among other things, the re-examination of the nation's foreign policy and how it could be efficiently and effectively 'sold' to the target audiences in Africa (Gerits 2015, 960). In his open speech, Nkrumah reaffirmed the task of the Ghanaian diplomats dispatched to the various missions in Africa, that is, the cultivation of a favourable public opinion about Ghana in their host nations. To enhance this task, the Ministry of Foreign Affairs in 1961 started to invest in the nation's public diplomacy campaigns geared towards African countries and the rest of the world. Exhibitions windows in London and New York were organised. The Ghanaian diplomats were to make the country's foreign policy attractive and help push other independent African states into making a firm policy against external interference of the affairs of Africa, argues Thompson. The BAA had researched and came out with propaganda (public diplomacy) to diminish the seeming tension between Ghana and other African states.

Post-colonial African leaders and diplomats were not mere pawns to the two major powers of the Cold War; however, a little room was offered to them to operate. Despite this, Ghana's president used all means to counter communism and capitalism and therefore prescribed his own pan-African ideology (Gerits 2015, 953). For Gerits, the new post-independent African nations were very vulnerable to the whims and caprices of the external powers of the Cold War since any of them could either help sustain an unpopular administration or sponsor an alternative regime.

Nkrumah's main objective was to make Ghana attractive in the eyes of other African leaders for influence to achieve the continental integration agenda. He employs one of Golan's three layers of the integrated model of public diplomacy, the mediated dimension, as a short-term strategy. He resulted in international media coverage influence in the black continent. Gerits (2015) notes that, in Accra, the president of Ghana established Radio Ghana. To attract other African leaders and their citizens, all the radio emissions from Ghana had to state the source of the broadcasting message. For example, 'This is the Voice of Africa, coming to you live from Radio

Ghana, Accra.’ The result of broadcasting to other African nations with the aim to influence foreign publics for support of his African unity vision is public diplomacy tactics.

Besides, Nkrumah used what modern public diplomacy scholars refer to as ‘Summit Diplomacy’ as one of the tools to implement his pan-Africanism. He organised several Conferences in Accra to deepen the link between activists of pan-Africanism (Thompson 1969). For instance, between 15 – 23 April 1958, the Conference of Independent African States (CIAS). In that same year, Nkrumah arranged for another Conference of All-African People’s Conference (AAPC) in December (Gerits 2015).

Nkrumah also employed diaspora diplomacy as another element in his public diplomacy techniques. Diaspora diplomacy was central in his pan-Africanism policy (Botwe-Asamoah 2005). He gave a place for the African diasporas in his African liberation agenda, thereby inviting most of them to Ghana’s Independence Day and Republican ceremonies in Accra. Among the invited African Diasporas were Martin Luther King Jr., Adam Clayton Powell, and Asa Philip Randolph (Thompson 1969). Thus, in the realm of diaspora diplomacy, Africans in the Diaspora visited Ghana most often, and it became a common phenomenon under the presidency of Nkrumah (Botwe-Asamoah 2005, 114). Mohammed Ali and Malcolm X were among the notable African diasporas who visited Ghana and added their voice to the African liberation policy. This public diplomacy approach also helped Nkrumah reach out to the foreign publics through the Africans in the diaspora through information dissemination to tell Ghana’s story to the world.

To further the course of the public diplomacy agenda, the president established three new institutions in Ghana to be responsible for outreach activities to foreign publics. These institutions are the African Affairs Secretariat (AAS), The Bureau of African Affairs (BAA), and the All Trade Union Congress (ATUC) (Botwe-Asamoah 2005). It is worth noting that Nkrumah had a suspicion on the Ministry of Foreign Affairs, bequeathed to Ghana by the colonial masters, as a secondary colonial mouthpiece. All three agencies had their specific roles assigned to them by the president. The AAS was charged with organising conferences of independent African states and nationalists movements. The BAA was the main body responsible for the public diplomacy job – a channel for information dissemination about the nation to overseas audiences, while the ATUC had the function of organising the Pan-African Federation Union. Therefore, these three institutions were the principal vehicles for pursuing the nation’s African policy (Botwe-Asamoah 2005, 110; Thompson 1969). However, BAA was the most powerful among them all and master planner of public diplomacy techniques.

The BAA had its headquarters at the presidential palace in Accra. The principal objective was to create a network and manage all the African international public relations issues (Gerits 2015). It was tasked to ensure the successful implementation of the president’s foreign policy of pan-Africanism. The Bureau is like the United States Information Agency (USIA) created in 1953 to be responsible for America’s public diplomacy agenda - to sell the US story to the world (Cull 2009). The same can be said of the BAA – to carry out Ghana’s public diplomacy programme in the continent. It was Ghana’s ‘Information Agency’ in Africa. In its official document defining its function, the BAA stated that it is an information office with a research department attached, plus a protocol unit, printing press, library, publication department, linguistic secretariat, and conference hall (Gerits 2015; Thompson 1969). It was charged to tell Ghana’s story in the African continent and beyond by engagement with targeted foreign publics through broadcasting, international dissemination information, exchange activity programmes, and other practical means. It became the central and principal agent of Ghanaian African foreign policy (Asamoah 2014).

The creation of the BAA by Nkrumah intensified and managed the decolonisation process and pan-Africanism (Asamoah 2014). It was, among other things, to coordinate all foreign policy and diplomatic matters pertaining to Africa (Brandful 2013). The location of BAA within the presidential compound indicates the emphasis Nkrumah put on his African liberation and unity foreign policy (Thompson 1969). The Bureau, to borrow the words of Baah-Duodo (2019), became the president’s “favourite son,” and it was endowed with all the resources that would

facilitate its mission (p. 17). The president will always first begin his day with African Affairs from 7:30 am – 9:00 am before delving into national issues (Asante K. 2014). The BAA was also the public diplomacy and public relations unit of Nkrumah's foreign policy agendas (Gerits 2015, 956). It promoted 'Nkrumahism' (the political philosophy and ideologies of African emancipation and unity of Nkrumah) on the African continent. Ghana, under president Nkrumah, had two different state institutions in charge of the nation's foreign policy, the BAA and the Ministry of Foreign Affairs (Gebe 2008). The BAA, however, was dissolved when the military took over power in 1966 and incorporated it into the Ministry of External Affairs (Asamoah, 2014; Baah-Duodo, 2019; Brandful, 2013).

Besides, various pan-Africanist political parties and organisation in other independent African states had their representative at the BAA (Thompson 1969). At the printing press unit, magazines, pamphlets, and other materials deemed helpful for public diplomacy information dissemination were printed in different languages and distributed across the continent. A monthly periodical magazine entitled 'Voice of Africa' was established and printed in Ghana with the notion that public diplomacy is more successful and influential than to borrow Nye's phrase 'hard power' – guns (White 2003). The BAA tried through the nation's public diplomacy practitioners (diplomats) to intensify its quest to engage and convince African audiences rather than their national leaders that Ghana was the only state capable of leading the continent to unify and manage the neo-colonial and imperialist tendencies and conspiracies (Gerits 2015, 961). BAA disseminated information abroad about Ghana and its culture, values, and policies through press, radio and publications, information media, and other information centres.

Nkrumah as a strong proponent of pan-Africanism, and some scholars even consider him to be the 'father' of Ghana's version of the concept, enacted the foreign policy of Africa liberation of the entire African continent from the colonial administration, thus offered financial assistance to other African nationalist nations (Thompson 1969). Financial assistance was also a way of cultivating a positive image and reputation of Ghana on the continent. BAA also rebranded the country with the change of name from Gold Coast to Ghana (Wekesa 2020).

Nkrumah went further to establish some pan-Africanism ideological training institutes to indoctrinate his foreign policy into the minds of the younger generation in the continent (Botwe-Asamoah 2005). This approach is also one of the propaganda machinery of Ghana's president. In line with these tactics, Kwame Nkrumah Youth Training School was established and opened with youth from the other African countries who came for training and returned to their various countries after completing a general course on youth leadership. For instance, 108 Gambians had their training at the institute (Gerits 2015). The Winneba Party College in 1961 was restructured and turned into the Kwame Nkrumah Ideological Institute as part of the public diplomacy technique (Thompson 1969). The objective of this new institute, according to the president, was to propagate the essence and substance of the continental unity in Ghana and throughout African nations strongly.

Moreover, to strengthen Ghana's public diplomacy under the presidency of Nkrumah, an advisor to the president George Padmore and later the director of the BBA was admonished by one WWK. Vanderpuye of Ghana's Ministry of Education to adopt the cultural-exchange scholarship tool of public diplomacy implemented by India, Egypt, and the US (Gerits 2015). Ghana, therefore, ventured into it. This programme of Nkrumah is similar to the present-day US Fulbright Educational programme for overseas students as part of the American public diplomacy strategy.

As part of the information dissemination instrument of public diplomacy, Nkrumah's BBA established various newspapers, printed and disseminated them. Newspapers such as the *Ghanaian Times*, the *Daily dispatch*, *Evening News* were state-owned, and copies were distributed to some selected educated Africans, news agencies of European nations, and other independent and dependent African countries (Asamoah 2014; Gerits 2015; Thompson 1969). The target audience for the newspapers was the educated public. The uneducated publics were served with cartoons

communicating the meaning of being an African; postcards and other visual materials were made to showcase the need for continental unity.

In addition, the government of Nkrumah established the Ghana External Broadcasting Service and the Voice of Ghana to supplement the already existing public diplomacy strategies (Asamoah 2014). These services aimed to project the image and reputation of Ghana abroad, specifically within the continent. The president included it in the Second Five Year Development Plan (1959 -1964) to boost this new external broadcasting expansion. Thus, two Canadian Broadcasting Corporation advisors arrived in Ghana in March 1958 to establish a radio network (Gerits 2015). This method of Nkrumah can be compared to the modern era of Western countries establishing international broadcasting networks for public diplomacy purposes like the UK's BBC, Americans VOA (Voice of America), the German's DW network, French's France24 network.

Results and Conclusion

The analysis above demonstrates that Ghana does have a solid historical public diplomacy root under its first pan-Africanist President Nkrumah. The discussion here depicts that it was systematically planned and financed with the needed resources to achieve its mission. Although Nkrumah did not achieve his African foreign policy of continental union of government as his vision was the 'United States of Africa,' his public diplomacy programmes greatly impacted the nation's diplomacy and foreign relations. Brandful (2013) notes that Nkrumah made Ghana become the black star of Africa and the world. As a former Ghanaian diplomat, he argues that Ghana's diplomacy has waned in modern international statecraft.

Ghana's public diplomacy under president Nkrumah can be described as a model of 'pan-Africanist public diplomacy.' The state was the principal actor; hence it is a form of 'state-based public diplomacy' (Hocking 2005). We remember that Gullion coined the phrase 'public diplomacy' during the era of the Cold War. Thus, the concept within this period was taking a new shape with a little literature. Nkrumah's public diplomacy may be viewed as 'propaganda' or any other phrase. However, if scholars accept the United States Information Agency (USIA) activities as public diplomacy campaign, Kwame Nkrumah's foreign policy activities led by his BAA, as discussed in this article, should be equally accepted as public diplomacy. The Bureau of African Affairs of Nkrumah mirrored the USIA in terms of public diplomacy strategies. The USIA handled public diplomacy of America until its merger with the Department of State in 1999 (Rugh 2014), while BAA managed Ghana's public diplomacy until 1966 when the military junta toppled Nkrumah's administration.

In conclusion, Ghanaian public diplomacy under Nkrumah may have its shortfalls; nevertheless, it is among the pioneering African public diplomacy in the continent and first in Ghana. Nkrumah's pan-Africanism foreign policy in the continent is regarded as one of the historical elements of African public diplomacy evolution (Wekesa 2020, 361). The article posits that Ghana should build on Nkrumah's public diplomacy strategies and adopt them in its present foreign policy and diplomacy agenda. The present government of Ghana and its ministry of foreign affairs should make public diplomacy a part of their diplomatic toolbox with great interest rather than only lip service. Again, the public diplomacy discipline could be introduced into the curriculum of the country's higher education system since, at the time of writing this article, the concept barely has a place in Ghana's education system. It could be introduced at the beginning, for example, as a module in one of the Master's degree programmes in international relations and diplomacy. It may also be incorporated into the training programmes of Ghana Foreign Service at the Ministry of Foreign Affairs at its Legon Centre for International Affairs and Diplomacy to equip Ghanaian diplomats and scholars of the new public diplomacy concept. It is essential to state that public diplomacy was significant for implementing Nkrumah's foreign policy of anti-colonial, non-alignment, and pan-Africanism.

References

- Asamoah, Obed Yao. 2014. *The Political History of Ghana (1950 - 2013) - the Experience of a Non-Conformist*. Bloomington: AuthorHouse.
- Asante K., B. 2014. *Voice from Afar: Was Nkrumah a dictator?* Accra, 20 October. Accessed 13 April, 2021. <https://www.graphic.com.gh/features/voice-from-afar/voice-from-afar-was-nkrumah-a-dictator.html>.
- Asante, K. B. 2017. *Do our Diplomats simply lie abroad for country?* Accra, 26 June. Accessed 13 April, 2021. <https://www.graphic.com.gh/features/voice-from-afar/do-our-diplomats-simply-lie-abroad-for-country.html>.
- Baah-Duodu, Kwabena. 2019. "A history of Ghana's Foreign Service." *MFARI Newsletter - The Ghanaian Envoy*, 3 December: 14-20. <https://mfa.gov.gh/wp-content/uploads/2021/02/The-Ghanaian-Envoy-Newsletter-2019.pdf>.
- Berridge, G. R. 2015. *Diplomacy - Theory and Practice*. 5th. Hampshire: Palgrave Macmillan.
- Boafo-Arthur, Kwame. 1999. "Ghana's Politics of International Economic Relations under the PNDC, 1982 - 1992." *African Study Monographs* 20 (2): 73-98. <https://doi.org/10.14989/68184>.
- Botwe-Asamoah, Kwame. 2005. *Kwame Nkrumah's Politico-Cultural Thought and Policies*. New York: London: Routledge.
- Brandful, William. GM 2013. *Personal Reflections of a Ghanaian Foreign Service Officer - Whither Ghanaian Diplomacy?* London: RoseDog Books.
- Cull, Nicholas J. 2019. *Public Diplomacy - Foundations for Global Engagement in the Digital Age*. Cambridge: Polity Press.
- Cull, Nicholas J. 2020. "Public Diplomacy Before Gullion: The Evolution of a Phrase." In *Routledge Handbook of Public Diplomacy*, by Nancy Snow and Nicholas Cull, 13-18. New York; Oxon: Routledge.
- . 2009. *The Cold War and the United States Information Agency: American Propaganda and Public Diplomacy, 1945-1989*. Cambridge: Cambridge University Press.
- Etsiah, Akyinba Kofi. 1985. *Foreign Policy under Military Rule in Ghana: 1966 - 1981*. Johannesburg: University of Witwatersrand.
- Fletcher, Tom. 2016. *The Naked Diplomat*. London: Collins Publishers.
- Fullerton, Jami A., and Alice Kendrick. 2017. "The Model of Country Concept Explained." In *Shaping International Public Opinion - A model for Nation Branding and Public Diplomacy*, by Jami A. Fullerton and Alice Kendrick, 7 - 23. New York: Peter Lang.
- Gebe, Boni Yao. 2008. "Ghana's Foreign Policy at Independence and Implications for the 1966 Coup D'état." *The Journal of Pan African Studies* 2 (3): 160-186.
- Gerits, Frank. 2015. "'When the Bull Elephants Fight': Kwame Nkrumah, Non-Alignment, and Pan-Africanism as an Interventionist Ideology in the Global Cold War (1957-66)." *The International History Review* (Routledge) 37 (5): 951-969. doi:10.1080/07075332.2015.1064465.
- Golan, Guy J. 2013. "An Integrated Approach to Public Diplomacy." *American Behavioral Scientist* 57 (9): 1251-1255.
- Golan, Guy J. 2015. "An Integrated Approach to Public Diplomacy." In *International Public Relations and Public Diplomacy - Communication and Engagement*, by Guy J. Golan and Sung-Un Yang, 417-440. New York: PeterLang.
- Golan, Guy J. 2017. "Foreword." In *Shaping International Public Opinion: A Model for Nation Branding and Public Diplomacy*, by Jami A. Fullerton and Alice Kendrick, ix-x. New York: PeterLang.
- Golan, Guy J., and Sung-Un Yang. 2015. "Introduction: The Integrated Public Diplomacy Perspective." In *International Public Relations and Public Diplomacy - Communication and Engagement*, by Guy J. Golan and Sung-Un Yang, 1-12. New York: PeterLang.
- Hocking, Brian. 2005. "Rethinking the 'New' Public Diplomacy." In *The New Public Diplomacy: Soft Power in International Relations*, by Jan Melissen, 28-43. Hampshire; New York: Palgrave Macmillan.
- Hunt, Alan. 2015. *Public Diplomacy - What it is and how to do it*. Geneva: UNITAR.
- Kunczik, Michael. 2009. "Transnational Public Relations by Foreign Governments." In *The Global Public Relations Handbook: Theory, Research, and Practice*, by Krishnamurthy Sriramesh and Deja Verčič, 769-794. New York; Oxon: Routledge.
- Melissen, Jan. 2013. "Public Diplomacy." In *The Oxford Handbook of Modern Diplomacy*, by Andrew F. Cooper, Jorge Heine and Ramesh Thakur, 436-452. Oxford: Oxford University Press.
- Melissen, Jan. 2005. "The New Public Diplomacy: Between Theory and Practice." In *The New Public Diplomacy*, by Jan Melissen, 3-27. Hampshire; New York: Palgrave Macmillan.
- Nye, Joseph S. Jr. 2004. *Soft Power - The Means to Success in World Politics*. New York: Public Affairs.
- Nye, Joseph S. Jr. 2011. *The Future of Power*. New York: Public Affairs.
- Ociepka, Beata. 2017. *Poland's New Ways of Public Diplomacy*. Frankfurt am Main: PeterLang.

- Rodak, Mallorie. 2017. "Impact and Evaluation of International Exchange programs as Tools of Relational Diplomacy." In *Shaping International Public Opinion - A Model for Nation Branding and Public Diplomacy*, by Jami A. Fullerton and Alice Kendrick, 169-199. New York: PeterLang.
- Rugh, William A. 2014. *Front Line Public Diplomacy: How US Embassies Communicate with Foreign Publics*. New York: Palgrave Macmillan.
- Snow, Nancy. 2015. "Public Diplomacy and Public Relations: Will the Twain Ever Meet?" In *International Public Relations and Public Diplomacy - Communication and Engagement*, by Guy J. Golan and Sung-Un Yang, 73-92. New York: PeterLang.
- Snow, Nancy. 2009. "Rethinking Public Diplomacy." In *Routledge Handbook of Public Diplomacy*, by Nancy Snow and Philip M. Taylor, 3-11. New York; Oxon: Routledge.
- Snow, Nancy. 2020. "Rethinking Public Diplomacy in the 2020s." In *Routledge Handbook of Public Diplomacy*, by Nancy Snow and Nicholas Cull, 3-12. New York; Oxon: Routledge.
- Strömbäck, Jesper, and Spiro Kioussis. 2020. "Defining and Mapping the Field of Theory and Research on Political Public Relations." In *Political Public Relations: Concepts, Principles, and Applications*, by Jesper Strömbäck and Spiro Kioussis, 1-42. New York: Routledge.
- Taylor, Philip M. 2009. "Public Diplomacy and Strategic." In *Routledge Handbook of Public Diplomacy*, by Nancy Snow and Philip M. Taylor, 12-16. New York; Oxon: Routledge.
- Thompson, W. Scott. 1969. *Ghana's Foreign Policy 1957-1966*. New Jersey: Princeton University Press.
- Wang, James, and Aimei Yang. 2020. "Public Relations and Public Diplomacy at a Crossroads - In Search of a Social Network." In *Political Public Relations - Concepts, Principles, and Applications*, by Jesper Strömbäck and Spiro Kioussis, 287-307. New York: Routledge.
- Wekesa, Bob. 2020. "African Public Diplomacy: Between Deficiencies and Potential." In *Routledge Handbook of Public Diplomacy*, by Nancy Snow and Nicholas Cull, 360-367. New York; Oxon: Routledge.
- White, Evan. 2003. "Kwame Nkrumah: Cold War Modernity, Pan-African Ideology and the Geopolitics of Development." *Geopolitics* (Routledge) 8 (2): 99-124. doi:10.1080/714001035.
- Williams, John. 2012. *Williams on Public Diplomacy*. London: IndieBooks.

Green Bonds and Diversified Interest Rates

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ABSTRACT: The climate change crisis has gained unprecedented urgency in the most recent decade. Overall, climate change has already led to and will continuously lead to irreversible tipping points and lock-ins that will degrade the common welfare. When taking a closer look at the macroeconomic growth prospects as measured in Gross Domestic Product (GDP), climate change gains and losses will be distributed fairly unequally throughout the world. A climate change winners and losers index generated the economic prospects under climate change around the world. The index attributed economic gain and loss prospects based on the medium temperature per country in relation to the optimum temperature for economic productivity and the GDP composition per country in order to determine how far countries are deviating from their optimum productivity levels on a time scale. As economic gains and losses from a warming earth are distributed unequally around the globe, ethical imperatives lead to the pledge to redistribute gains to losing territories in the quest for climate justice. Climate justice comprises fairness between countries but also over generations in a unique and unprecedented tax-and-bonds climate change gains and losses distribution strategy. Climate change winning countries are advised to use taxation to raise revenues to offset the losses incurred by climate change. Climate change losers could raise revenues by issuing bonds that have to be paid back by taxing future generations. Regarding taxation, within the winning countries, foremost the gaining GDP sectors should be taxed. Climate justice within a country should also pay tribute to the fact that low- and high-income households share the same burden proportional to their dispensable income, for instance enabled through a progressive carbon taxation. Those who caused climate change could be regulated to bear a higher cost through carbon tax in combination with retroactive billing through inheritance tax to map benefits from past wealth accumulation that potentially contributed to global warming. A novel policy recommendation for enacting climate justice entails diversified interest rate regimes for climate bonds repayment based on the country's initial position on the climate change gains and losses index spectrum. Diversified repayment of bonds is a new method aimed at ensuring to share the burden but also the benefits of climate change within society in an economically efficient, legally equitable and practically feasible way.

KEYWORDS: Climate Change, Economics of the Environment, Environmental Justice, Environmental Governance, Green New Deal, Healthcare, Monetary Policy, Multiplier, Social Justice, Sustainability

Climate change winners and losers around the world

Climate change has become reality. In the very many contemporary writings about global warming, the discussion has been centered around the negative impacts of climate change. The burden of climate change has been thematized and cost sharing strategies heatedly debated. The need for fairness in sharing the burden of climate change has been argued to considering national economies, the world society but also balance inbetween generations. In the current frustration over the neglect of interest in ratifying intergovernmental climate agreements, the contemporary climate negotiations may be stuck in the one-sided grilling to share burden lowering participation motivation. Unraveling the unprecedentedly described benefits arising from a warming earth may help build a more whole-rounded participatory incentive structure. State-of-the-art welfare function measurements and economic productivity parameters become the basis for conclusions about a fair spread of the gains and benefits from a warming earth. Contemporary Gross Domestic Product (GDP) measurements serve as basis for estimations about the productivity of the

agriculture, industry and service sectors around the world. Based on the cardinal temperatures for the agriculture, industry and service sectors productivity, the average temperature per country around the world as well as climate projections of the year 2100 under the business as usual path, Puauschunder (2020b) revealed climate winners and losers around the world.

Overall and simply seen from a narrow-minded GDP perspective, the world will macroeconomically benefit more from climate change until 2100 than lose. Winning and losing from a warming earth is significantly positively correlated with the Paris COP 21 emissions country percentage of Greenhouse Gas (GHG) for ratification, leading to the conclusion that the countries that have the longest time horizon regarding a warming earth also lack motivation to mitigate global climate change based on the short-term benefits.

Following ethical considerations of Immanuel Kant's categorical imperative and John Rawls' veil of ignorance, the climatorial imperative was formulated to advocate for the need for fairness in the distribution of the global earth benefits among nations based on Kant's imperative to only engage in actions one wants to experience themselves being done to oneself. Passive neglect of action on climate mitigation is an active injustice to others.

While the method to measure the gains from climate change can certainly be refined in future studies, shedding light on climate change winners and losers is opened the gates for policy work to settle for a right, just and fair distribution of benefits and gains from our common warming mother earth. The introduction of the gains from climate change is a novel approach that should solely be seen in connection to the imperative to distribute the gains in a fair manner among all world inhabitants and as means to hopefully draw attention to climate change to agnostic market actors or those who shy away from action given the overall negative connotation of burden sharing and loss aversion.

Climate justice implementation: Climate change winner transfer grantors

The implementation of climate stability accounts for the most challenging contemporary global governance predicament that seems to pit world countries but also today's generation against future world inhabitants. In a trade-off of economic growth versus sustainability, a broad-based international coalition could establish climate stability. As a novel angle towards climate justice, the attention to global warming gains and losses being distributed unequally around the globe allows to propose to search for a well-balanced climate mitigation and adaptation public policy mix guided by micro- and macroeconomic analysis results. A new way of funding climate change mitigation and adaptation policies but also the transition to renewable energy through broad-based climate stability bonds-and-taxation mix that also involve future generations (World Bank 2015a, b).

Having shed light on the gains of a warming earth demands for the redistribution of climate change benefits to those areas of the world that will be losing from a warming earth. In the implementation, a climate change bonds but also taxation strategies are recommended. Having found that there are gains from a warming earth demands to transfer benefits into areas of the world that will be primarily losing from climate change. In order to avoid governmental expenditure on climate change hindering economic growth (Barro 1990); the climate transfers should be enacted through bonds and taxes.

Technological innovations are usually a result of a mix of private and public activities. The public sector can set frameworks and incentives, to support inventions through R&D and de-risk of innovation through public support and subsidies and setting incentives. Public actions – such as tax and subsidies but also bonds – enable the transition to a low carbon economy, and contributing to a faster transformation of the energy system toward a less carbon-based energy provisions.

Portfolio and hedge fund managers strive for reducing risks to the overall portfolio, in the short and the long run. Renewable energy appears as crisis-stable market option as for

being chosen in a quasi-religious act based on values and not on profit motives. Investment options based on renewable energy can reduce the risks and political dependencies on commodities associated with non-renewables.

First Jeffrey Sachs (2014) proposed an intergenerational burden sharing idea by presenting a 3-model climate change burden sharing through fiscal policy with bond issuing in order to reflect the implementation regarding contemporary finance and growth models with respect for maximizing utility of the model. In an overlapping-generations type model, research should elucidate climate change abatement and mitigation policies to lead to a fairer solution across generations. The current generation mitigates climate change and provides infrastructure against climate risk financed through climate bonds to be paid by future generations. Since for future generations the currently created externalities from economic activities – the effects of CO₂ emissions – are removed, this entails that the current generations remain financially as well off as without mitigation while improving environmental well-being of future generations. As Sachs (2014) shows, this intergenerational tax-and-transfer policy turns climate change mitigation and adaptation policy into a Pareto improving strategy. Shifting the costs for climate abatement to the recipients of the benefits of climate stability appears as novel, feasible and easily-implementable solution to nudge many overlapping generations towards future-oriented loss aversion in the sustainability domain (Puaschunder 2018).

One of the most prominent forms to create revenues for public long-term investment causes are taxes. Taxation is codified in all major societies and a hallmark of democracy. Aimed at redistributing assets to provide public goods and ensure societal harmony, taxation improves societal welfare and fairness notions within society. Tax compliance is a universal phenomenon based on cooperation in the wish for improving the social compound. Taxpayers voluntarily decide to what extent to pay or avoid tax that limit the personal freedom. In a social dilemma, individual interests are in conflict with collective goals. From a myopic economic perspective, the optimal strategy of rational individuals would be to not cooperate and thus evade tax. Short-term the single civilian tax contribution does not make a significant difference in the overall maintenance of public goods – if only a few taxpayers evade taxes, public goods will not disappear or be reduced. But if a considerable number of taxpayers do not contribute to tax over time, common goods are not guaranteed and ultimately everyone will suffer from suboptimal societal conditions (Dawes 1980; Stroebe & Frey 1982). Contemporary economic research has focused on costs and risks of tax evasion (Tyler & De Cremer 2006). Coercive means – such as audits and fines – were found to crowd out tax morale and ultimately result in greater non-compliance as people feel controlled and not being trusted (Cialdini 1996; Feld & Frey 2002; Frey 1992; Hasseldine 1998). In the last decade, researchers have started to recognize the importance of incorporating morals and social dynamics in economic theory on tax behavior (Andreoni, Erard & Feinstein 1998). When analyzing tax behavior, recently behavioral economics insights have drawn attention to social influences (Puaschunder 2020a).

Behavioral economists widen the lens of incorporating sociological and socio-psychological notions of fairness stemming from social comparisons regarding tax burdens could be positive drivers of tax compliance to overcome the ‘burden of taxes’ and associations of losses. The cases of voluntary, self-chosen tax ethics and situational influences on social tax compliance norms have just recently been covered by behavioral approaches towards public administration. In general, social comparisons determine social norms that define internalized standards how to behave. Yet internalized social norms are based on comparisons with others that may determine tax morale (Frey 1997; Mumford 2001; Schmolders 1960). Social norms elicit concurring behavior when taxpayers identify with the goals of a group but also if they feel being treated in a fair manner by that group. Social fairness considerations in a tax reference group may further taxpayer compliance. Fairness is believed to decrease egoistic utility maximization leveraging trust and reciprocity as interesting social norms building factors (Kirchler 2007). Social perceptions of fairness as underlying social norms are therefore potential tax ethics nudges. But

psychological facets of fairness for the formation of social norms have been left out. If taxpayers believe that non-compliance is a widespread and socially-accepted, then it is more likely that they will not comply as well. Non-compliance may stem from the notion of unfairness in how the tax burden is weighted heavier on some parts of society.

The respective bonds-and-tax climate stability financing strategy therefore proposes to bear the burden of climate in a right, just and fair way around the globe. In the climate change winner countries, taxation should become the main driver over financing climate stability strategies. Foremost, the industries winning from a warming climate should be taxed. The Winner-Loser-index is based on the cardinal temperatures for all GDP contributing sectors. Based on the cardinal temperatures for the three GDP components agriculture, industry and service, the taxation should be enacted for those sectors having most time ahead. The rationale is that these sectors will be gaining the most from a warming earth and will therefore be flourishing.

The taxation models should aid to share the burden of climate change within society in a fair way. Regarding concrete climate taxation strategies, a carbon tax on top of the existing tax system should be used to reduce the burden of climate change and encourage economic growth through subsidies (Chancel & Piketty 2015). Within a country, high and low income households should face the same burden of climate stabilization adjusted for their disposable income. First, climate justice within a country should pay tribute to the fact that low- and high-income households share the same burden proportional to their disposable income, for instance enabled through a progressive carbon taxation. Those who caused climate change could be regulated to bear a higher cost through carbon tax in combination with retroactive billing through inheritance tax. But also developed and underdeveloped countries as well as various overlapping generations are affected differently. Besides progressive taxation schemes to imbue a sense of fairness in climate change burden sharing, inheritance taxation is also a flexible means to reap past wealth accumulation, which potentially caused environmental damage. The burden of climate change mitigation and adaptation could also be allocated in a fair way within society through contemporary inheritance tax in order to reap benefits of past wealth accumulation.

In addition, finding the optimum balance between consumption tax adjusted for disposable income through a progressive tax scheme will aid to unravel drivers of tax compliance in the sustainability domain. If climate taxation is perceived as fair and just allocation of the climate burden, this could convince tax payers to pay one's share. A novel 'service-and-client' atmosphere could promote taxpayers as cooperative citizens who are willing to comply if they feel their share as fair contribution to the environment. Taxpayers as cooperative citizens would then be willing to comply voluntarily following the greater goal to promote taxpayer collaboration and enhance tax morale in the environmental domain. International comparisons of tax behavior also reveal tax norms being related to different stages of institutional development of the government, which is an essential consideration in sharing the climate change burden in a fair manner between countries. A completely novel approach is to shed light on the benefits of a warming earth in order to derive fair climate gains distribution strategies around the world (Puaschunder 2020b).

Climate justice implementation: Climate change loser transfer beneficiaries

Introducing financing climate change mitigation through bonds to be paid back by future generations through taxation is a means to raise funds for offsetting the losses of global warming. As a novel way to amend individual saving preferences in favor of future generations, Sachs (2014) proposes to mitigate climate change by debt to be repaid by tax revenues on labor income in the future. In a 2-period model, one generation works in period 1 and retires in period 2. Part of the disposable wage income is saved for consumption in the second period. CO₂ emission mitigation imposes immediate costs onto current generations and reduces

wages. Greenhouse gas concentrations in period 2 are determined by the emissions in period 1. Wages of the young in the second period are reduced by climate change dependent on greenhouse gas levels. Disposable labor income of the young equals market wage net of taxes. Leaving the current generation with unchanged disposable income allocates the burdens of climate change mitigation across generations without the need to trade off one generation's well-being for another's.

While today's young generation is left unharmed, the second period young generation is made better off ecologically. The bonds solution should be pursued in climate change loser countries, in order to offset the costs for climate change in a more intergenerationally harmonious way. Since the majority of GDP contributing factors is losing in climate change loser countries, future generations should be serving as last resort to pay for climate stability. While future generations enjoy a favorable climate and averted environmental lock-ins; the current populace does not face drawbacks on economic growth (Puaschunder 2019a, b). All generations are better off with mitigation through climate bonds as compared to the business-as-usual (BAU) non-mitigation scenario (Sachs 2014).

Governments in loser countries should receive tax transfers in the present from the winning countries. Since here borrowing equals loans or issuing of bonds to be paid back by future generations, the government must pay back debt plus interest payments by raising taxes on later generations. Taxing future generations is justified as for the assumed preferences of future generations to avoid higher costs of climate change long-term damages and environmental irreversible lock-ins. Overall, this tax-and-transfer mitigation policy thus appears as a Pareto-improving fair solution across the world and generations.

Climate justice implementation: Green bonds with diversified interest rate

Green bonds have become fundamental pillars to raise funds for a transition to renewable energy. Solar power and wind turbines, eco-friendly infrastructure and more research and development in clean energy and green technology are all investments for climate change, which have been funded by bonds. The financialization of climate justice are estimated to comprise of 5-7% of the contemporary world GDP, accounting for 5-6 billion USD.

The Green New Deal and the European Green Deal in combination with the European Sustainable Finance Taxonomy are all efforts to marry the idea of economic growth in line with the natural resources. Green bonds could fund all these endeavors and are currently pegged to governmental aid in the post-COVID-19 crisis recovery aid. Governments can also bring back the financial world in the service of improving and stabilizing the real economy in a stricter separation between investment and consumer banks, which already began in the course of the regulations following the 2008/09 recession. Central bank could offer diversified interest rates. Low key interest rate for driving innovation and economic growth in the financial sector that refunds higher interest rates for the real economy savings for consumers in order to avert psychosocial friction from individual over-indebtedness in households.

Based on the climate change winners and losers index, global governance could determine climate change transfer grantors and beneficiaries of climate bonds. Climate bonds could thereby feature a combination of climate justice between countries and over time. On a yearly basis, countries already determine their greenhouse gas emissions levels, hence their causing of the climate change problem. Being a climate change winner or loser should also be integrated into an index based on the greenhouse gas emissions per country in relation to other countries. The two factors of being a climate change winner or loser but also the current greenhouse gas emissions should determine a key to estimate the transfer need. Based on this index, the redistribution scheme could be enacted via a diversified interest rate, in which the climate change winners should face a lower interest rate, which will spark capital mobility in territories that gain economically from climate change. In countries that already face

economically declining prospects due to climate change, the interest rate for climate bonds should be higher compared to climate change winners. In addition, the diversified interest rate of the climate bonds should depend on the greenhouse gas emissions levels of countries. High greenhouse gas emitting countries that are contributing more to the problem should be paying more for climate stability and hence face a lower interest rate. Lower greenhouse gas emitting countries should be beneficiaries of a higher interest rate for common green bonds. This will ensure that countries – despite having the prospect to gain from global warming – are incentivized to keep their greenhouse gas emissions at a low level.

Conclusion

Climate justice accounts for the most challenging global governance goal. In the current post-COP21 Paris agreement climate change mitigation and adaptation efforts, the financialization of the ambitious goals has leveraged into a blatant demand. In the weighting of the burden of global warming, the benefits of a warming earth have been neglected since recently.

Following the introduction of the gains from climate change, a macroeconomic model was proposed to distribute the benefits of a warming earth in a fair way based on which countries are losing and which countries are winning from a warming earth until the year 2100. A fair global warming benefits distribution that grants climate justice around the world and over time was introduced that included a tax-and-bonds transfer strategy. A macroeconomic cost-benefit analysis thereby aids to find the optimum solution on how to distribute climate change benefits and burden within society and over time. When unidimensionally focusing on estimated GDP growth given a warmer temperature, over all calculated models assuming linear, prospect or hyperbolic gains and losses, the world will be gaining more than losing from a warming earth until the year 2100. Based on the *WL* index of 188 countries of the world, less countries ($n=78$) will gain more from global warming until 2100 than more countries ($n=111$) will lose from a warming earth. Based on the overall *WLTT* index factored by GDP per inhabitant, global warming benefits are demanded to be redistributed in a fair way to offset climate change loser countries for climate change mitigation and adaptation efforts and in order to instigate a transition into renewable energy.

Adding onto contemporary climate fund raising strategies ranging from emissions trading schemes (ETS) and carbon tax policies as well as financing climate justice through bonds as viable mitigation and adaptation strategies; climate justice is introduced to comprise of fairness within a country but also among different nation states and over time in a unique and unprecedented tax-and-bonds climate change gains and losses distribution.

Thereby, climate change winning countries should be using taxation to raise revenues to offset the losses incurred by climate change. Climate change losers could raise revenues by issuing bonds that have to be paid back by taxing future generations. Regarding taxation, within the winning countries, foremost the gaining GDP sectors should be taxed.

Climate justice within a country should also pay tribute to the fact that low- and high-income households share the same burden proportional to their dispensable income, for instance enabled through a progressive carbon taxation. Those who caused climate change could be regulated to bear a higher cost through carbon tax in combination with retroactive billing through inheritance tax.

The most novel innovation would be climate change bonds that offer a diversified interest rate regime based on the starting point on the climate change winners and losers index as well as the self-reported greenhouse gas emissions. An overall redistribution key could determine per country transfers based on the climate change winner or loser status as well as the contribution to the climate change problem in their greenhouse gas emissions. The interest rate of a commonly shared bond could feature either a high or low interest rate in order to incentivize market actors strategically. A high interest rate should be offered for countries

with climate change losing prospect as well as low greenhouse gas emissions. Moderate interest rates should be given to countries in the middle of the climate change winners and loser index spectrum as well as medium rates of greenhouse gas emissions. A low interest rate should be issued to countries that are high climate change winners on the winners and loser index spectrum as well as have high rates of greenhouse gas emissions. All these measures would ensure to share the burden but also the benefits of climate change within society in an economically efficient, legally equitable and practically feasible way.

References

- Andreoni, J., Erard, B. & Feinstein, J.S. 1998. „Tax compliance.” *Journal of Economic Literature* 36(2): 818-860.
- Barro, R. 1990. “Government spending in a simple model of endogenous growth.” *Journal of Political Economy* 98: 103-125.
- Chancel, L. & Piketty, Th. 2015. *Carbon and inequality: From Kyoto to Paris*. Paris, France: Paris School of Economics.
- Cialdini, R.B. 1996. “Social influence and the triple tumor structure of organizational dishonesty.” In D.M. Messick and A.E. Tenbrunsel (Eds.), *Codes of conduct*, pp. 44-58. New York: Sage.
- Dawes, R.M. 1980. “Social dilemmas.” *Annual Review of Psychology* 31(1): 169-193.
- Feld, L.P. & Frey, B.S. 2002. “Trust breeds trust: How taxpayers are treated.” *Economics of Governance* 3(2): 87-99.
- Frey, B.S. 1992. “Tertium datur: Pricing, regulation and intrinsic motivation.” *Kyklos* 45(2): 161-184.
- Frey, B.S. 1997. *Not just for the money: An economic theory of personal motivation*. Cheltenham: Edward Elgar.
- Hasseldine, J.D. 1998. “Prospect theory and tax reporting decisions: Implications for tax administrators.” *International Bureau of Fiscal Documentation* 52 (11): 501-505.
- Kirchler, E.M. 2007. *The economic psychology of tax behaviour*. Cambridge: Cambridge University Press.
- Mumford, A. 2001. *Taxing culture*. Aldershot: Ashgate.
- Puaschunder, J.M. 2018. *Intergenerational Responsibility in the 21st Century*. Wilmington, US: Vernon Arts & Science, 2018.
- Puaschunder, J.M. 2019a. *Corporate and Financial Intergenerational Leadership*. Lady Stephenson, Newcastle upon Tyne, UK: Cambridge Scholars Publishing, 2019a.
- Puaschunder, J.M. 2019b. *Intergenerational Equity: Corporate and Financial Leadership*. Cheltenham, UK & Northampton, MA: Edward Elgar, 2019b.
- Puaschunder, J.M. 2020a. *Behavioral Economics and Finance: Nudging and Winking to make Better Choices*. Springer Nature, 2020a.
- Puaschunder, J.M. 2020b. *Governance and Climate Justice: Global South and Developing Nations*. New York, New York: Palgrave Macmillan. Cham, Switzerland: Springer Nature, 2020b.
- Sachs, J.D. 2014. “Climate change and intergenerational well-being.” In Bernard, L. & Semmler, W. (Eds.), *The Oxford Handbook of the Macroeconomics of Global Warming*, pp. 248-259. Oxford: Oxford University Press.
- Schmölders, G. 1960. *Das Irrationale in der öffentlichen Finanzwirtschaft*. Frankfurt am Main: Suhrkamp.
- Stroebe, W. & Frey, B.S. 1982. “Self-interest and collective action: The economics and psychology of public goods.” *British Journal of Social Psychology* 21(2): 121-137.
- Tyler, T.R. & De Cremer, D. 2006. “How do we promote cooperation in groups, organizations, and societies?” In P.A.M van Lange (Ed.), *Bridging social psychology. Benefits of transdisciplinary approaches*, pp. 427-433. Mahwah: Lawrence Erlbaum.
- The World Bank 2015a. Report. Washington DC: World Bank.
- The World Bank 2015b. Green bonds attract private sector climate finance, World Bank Brief.

School Success Between Expectations and Achievement

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ABSTRACT: School success is the goal of many students and parents. This paper aims to study the issue of school success in terms of expectations and academic achievement and is structured in two parts. The first part deals with aspects of school success and addresses topics such as school performance, school success, school failure, school evaluation, and motivational factors. School performance, understood as the result of all student activities and expressed through grades, is different from school achievement, which is oriented towards its value. Academic achievement depends on motivational factors, the influence and involvement of parents in the school life of the student, how the student relates to the environment, and educational influences. The second part of the paper addresses the issue of students' and parents' expectations regarding academic results. Differences or similarities between these expectations can lead to school success and academic achievement. The expectation-value theory highlights the catalytic effect of expectations, as well as the reciprocity of the relationship between parents' expectations and students' academic achievement.

KEYWORDS: school performance, school success, school failure, evaluation, motivation, expectations, achievement

Introduction

School performance is an important landmark of a person's overall achievement throughout life. School trajectory, future career, socio-professional status, income level, quality of life represents just some of the aspects of life that can be determined by school performance and academic achievement. Although school results do not define the person as such, they play an important role in developing personality, self-confidence, and relating to the individual in society. School success can be determined by many factors, including motivation, socioeconomic status, family environment, students' expectations, as well as parents' expectations regarding their school results.

In addition to influencing students' academic expectations, parents' expectations can also influence their academic achievement. For example, Aldous (2006) found that adolescents' academic achievement was high when parents and adolescents had high levels of academic expectations.

Aspects of school success

To better understand the aspects that characterize school success, some elements such as school performance compared to school success, factors that can lead to school success or failure, how to evaluate school results, factors that stimulate learning motivation in school must be considered. Sometimes parents' expectations do not match students' expectations concerning academic achievement. Differences or similarities between these expectations can also determine academic achievement.

School performance

Performance is the result of all activities and responses of the subject, the product of experience and learning under the guidance of the teacher. School performance is expressed by the performance index, respectively by grades, and has a strong motivational effect. It

intensifies and supports the learning effort, stimulates the establishment of a high level of performance, and inspires satisfaction in the development of the experience. The most important factor in determining the need for performance is the performance itself. Positive performances tend to increase the efficiency of learning, while failure determines its diminution (Lazăr 1975).

School performance results from the instructive and stimulating management of learning in groups and classes or from the interactions established between student and teacher in certain social conditions. The main categories of factors that determine school performance are those related to the school environment, the social environment pedagogically assimilated in school, and the social environment internalized individually. The school environment is highlighted by the characteristics of the school units, the components of the training model, the pedagogical ethos of the teachers, the student's motivation for learning; the pedagogically assimilated social environment consists in combining the aspects related to the material basis of the school, the integration of education with research, the socio-moral climate in the school, the selection criteria of the students integrated into certain types of schools; the individual internalized social environment refers to the environment of social and family origin of the student, the parent's interest in the school, the student's conception of himself. The three categories of factors influence or determine the level of school performance both at the school and personal level, of each student (Jinga et al. 1989).

According to Bayrak and Köksal (2017), if parents are aware of how important preschool education is, these institutions meet expectations, proving to be places where the child acquires and develops skills to support him to learn in the following years, establishes relationships with others and develops social skills to interact with the social environment.

The importance that the family attaches to children's education and efforts directed towards school can be a predictor of school performance. Weisner and Garnier's (1992) longitudinal study of conventional, unconventional, and cross-cultural families indicated that various value commitments "protect" children from threats such as marital instability, which may otherwise reduce academic achievement. Weisner and Garnier concluded that families who reported sustainable, consistent, and meaningful values were more likely to maintain a home-friendly environment for children's academic development (Weisner and Garnier 1992).

School success

School results and student adaptation are influenced by many people, processes, and institutions. Parents, extended family, peer groups, neighbors, school groups, and other institutions (eg churches, clubs) are involved in shaping children's progress towards their personal and social fulfillment. Children themselves, with their unique abilities, temperaments, and inclinations, play a central role in shaping and reforming their behavior, aspirations, and achievements. The family size, structure, income, and employment model are influential factors for educational achievements and personal adaptation. These processes will be influenced by a wide range of other factors and, at the same time, will operate through a series of interconnected processes (Desforges and Abouchaar 2003).

School success is seen from two perspectives: the need for success and the orientation towards the values of success. While the upper and middle classes are dominated by the spirit of competition and volunteering, the desire to succeed, and the taste for effort, the lower classes are characterized by passivity and fatalism. These attitudes are due to the temporal vision of these categories: the first is oriented towards the future, willing to sacrifice the present to achieve success, managing time efficiently, and the second is oriented towards satisfying immediate needs and desires. So, school success is differentiated according to the socio-economic class of the parents: those who belong to upper or middle social classes value school success as a means of social ascension, orienting children's aspirations to social and

higher school levels, and those in the classes rather, they transmit a failure-oriented attitude (Stănciulescu 1997).

Some researchers believe that one of the most important conditions for school success is the mother's affection. Therefore, maternal rejection or absence of affection negatively influences both school achievement and long-term outcomes (Epstein 1983). However, the affection-success relationship is not automatic, it is not always valid. Thus, the maternal condition can lead to school failure if it is associated with the permissiveness of mothers towards school activity. The dependence of performance on the maternal condition varies depending on the child gender: if for boys the affectivity leads to positive school results, in the case of girls, the more help and affection they receive, the lower the results. On the other hand, ethnicity is a determining factor in the emergence of school performance, so that girls' school success is directly proportional to maternal affectivity in black or Latino families, while in Asian families this ratio is inefficient (Stănciulescu 1997).

Success vs. school failure

The notion of school failure is viewed differently in many countries around the world. If in some EU countries the term school failure does not exist, but only takes the form of not realizing the individual potential of the student (England, Wales, Ireland), in other countries failure is understood as an imbalance between students' skills, natural abilities and prof obtained (Denmark), unqualified exit from the education system (France), dropout rate or illiteracy (Greece), the inability of students to achieve defined objectives (Portugal, Spain, Belgium), the inability of the student to acquire basic knowledge (Italy), repetition rate and dropout (Germany). Therefore, school failure is "the inability of the education system to achieve true equality of opportunity, (...) the difficulty of combining the aspiration of a quality education with a sufficient level of education for each, ensuring participation in social life" (Eurydice 1996, 55-58).

Studies have shown that students who started school after completing preschool education were more involved, open, and able to adapt to school activities and achieved better academic results than other students (Kaiser and Bauer 2017; Manigo and Allison 2017; Duncan and Magnuson 2013). It is clear that the first years are of crucial importance in individual development, are real support for the development of the individual during this period, and have positive effects on academic success, school performance, and social life in the future.

Parents play an important role in promoting academic success by involving in their children's schoolwork, stimulating cognitive growth at home, and promoting values in accordance with academic achievement. The parent's involvement in the children's academic and school activity is related to the reduction of behavioral problems and academic achievements over time (Hill et al. 2004). In adolescence, low academic achievement is associated with a variety of health risk behaviors, including substance abuse, adolescent sexual activity, depression, and violence. Given the link between parental competence and student success, it would seem plausible that interventions targeting family management skills reduce problematic behavior and increase academic performance (Stormshak et al. 2009).

To prevent school failure, there are several types of interventions, such as early preschool and as a complement to education and family life, partnerships between schools, local associations, social workers, businesses, collaboration with family, training, and development of pedagogical skills of the teaching staff, improving, and adapting school management to the specific needs of the local community, school, and professional guidance (Eurydice 1996).

Some studies have shown that students who encounter school difficulties are not necessarily among those who have poor school attendance or behavioral disorders, but those who are affected by previous school failures and feel this as a personal failure in terms of

their assertion in the community. Affective failure can take the form of disinterest, negative reactivity, refusal, or opposition to school or family requirements, as well as anxiety, insecurity, self-doubt, or imbalance between student interests and outcomes, or inconsistencies in school activities (Radulian 1967).

Evaluation of school results

One cannot talk about performance, success, or school failure without a system for evaluating them. The evaluation of an object, in general, aims to estimate its value, the degree of compliance with the ideal norm. In education, the notion of evaluation represents an association of the real (the student's knowledge) with the ideal (the standard value), of the ethic (what is worth estimating) with the desirable (what is desirable) (Manolescu 2008).

Evaluation is a complex process of pedagogical actions through which: the achievement of the proposed objectives about a norm is measured and assessed with the help of criteria; a grade is assigned to the student's performance; the degree of correspondence between a set of information on student learning and a set of criteria related to a specific objective is examined to make a decision; a judgment is issued; it is estimated; is checked; a verdict is given (Manolescu & Panțuru, 2008).

By providing feedback after assessment, students can gain self-confidence, develop an active learning style, based on conscious and voluntary choice of learning strategies, and gain motivation for future success (Stoica, 2003). The pedagogical purpose of the assessment is to provide an answer concerning the students' knowledge level. The answer given by evaluation must be argued, to ensure a clear justification of the assessment made by the teacher of students' works (Cucuș 2014).

The effects of evaluation are reflected in three major areas: training, learning, and the needs of society. Evaluation is useful for both teachers and students and society: teachers can use the results of the evaluation to improve training activities, by continuous comparison with training objectives; students will experience positive changes in school behavior, and society will certify the level of training and skills acquired (Telleri 2003).

Motivation in learning

The problem of motivation in learning has been approached by many specialists and several theories have emerged, of which the best known are the theory of attribution, the theory of goals, and the theory of self-determination. The attribution theory proposed by Weiner (in Gherasim and Butnaru 2013) is based on the fact that the individual attributes the failure or success of his actions or personal qualities. So, he tries to understand himself to know himself better, to regulate his behavior, and to choose the course of his actions. Goal theory consists of a set of ideas relevant to understanding academic motivation, formulated, and tested by several authors. Within this theory, there are two categories of goals that people often associate with achieving the desired results: performance/skill goals and mastery/learning goals (Negovan and Tomșa 2017).

To analyze the motivational process, the first step is to observe the context in which the learning takes place and the situations in which the student is placed. Viau (2004) suggests that school motivation is generated by the student's perceptions about himself and the environment in which he learns, including teachers, school subjects, teaching tasks. Weiner (1992), on the other hand, considers that school success or failure depends on the subjective model in which students explain these phenomena, and which are related to the intensity of the emotions that accompany them. The effects of negative emotions can influence the student's attitude and confidence in himself and school.

Effective training can occur only through the positive response to learning outcomes, through reward you achieve success and achievement. Thus, instruction must be based on obtaining the student's intrinsic motivation and learning satisfaction (Jinga et al. 1989).

One of the main motivating factors is the family from the perspective of the socio-economic situation, the affective-emotional-intellectual support, and the values of the family. Although a modest financial situation may be an obstacle to maintaining the motivation to learn, an exceptionally good financial situation does not have to be a positive guarantee in this regard. In situations where parents can support their children in doing homework, this will be an advantage in favor of stimulating and maintaining students' motivation (Sălăvăstru 2004).

Expectations and achievement

The key context for assessing the parents' impact on students' school results is at home. Depending on the age or level of child development, parents can also ensure the acquisition of skills (for example, the basics of literacy and calculation through puns and numbers). These skills could also help children with special needs. Throughout the school years, parental involvement seems to have a major impact on children by shaping values and expectations, by encouraging, interest and respect for the learning child. It seems that students internalize aspects of parental values and expectations as they form an image of themselves as learners. These influences are interpreted through discussions about and beyond the educational process. All aspects of these exchanges can be improved through learning (Desforges and Abouchaar 2003).

Students' expectations regarding school results

Due to their important effects on academic achievement, the academic expectations of adolescents have been widely studied in the field of adolescent development. To conceptualize the formation of adolescents' academic expectations, especially the impact of past academic achievements and the social context on adolescents' academic expectations, Wigfield and Eccles (2002, 91-120) developed the „expectation-value” theory of motivation for achievement. The theory states that adolescents' expectations and values are influenced by their social context (parents, teachers, colleagues, neighbors, and community) and previous academic achievements. Once the expectations and values of the individual are established, they influence the academic performance, perseverance, and choice of the academic subject. In other words, the theory presents causal relationships between the social context (for example, parents' expectations), their expectations, and academic achievement.

Rosen and Aneshensel (1978) noted that although the academic expectations of boys and girls were influenced by the perception of parents' expectations, the effects of parents' expectations were greater between mothers and daughters than between fathers and sons. Another study found that girls are more sensitive to parental expectations than boys (Flouri and Hawkes 2008).

The expectation-value theory

The expectation-value theory is useful to explain not only how parental expectations influence adolescents' expectations and achievement, but also how parental expectations are developed (Wigfield and Eccles 2002, 91-120). Several studies have suggested that the relationship between parental expectations and adolescent achievement is reciprocal. For example, in an analysis involving longitudinal path models, Mistry et al. (2009) found that the parents' and teachers' expectations are dynamic and receptive to the adolescents' achievement and performance over time.

In support of the „expectation-value” theory, several researchers have demonstrated the importance of parents' academic expectations in shaping their children's academic expectations (Bandura et al. 1996, Goyette and Xie 1999, Smith 1981). For example, Bandura et al. (1996) found that children whose parents had high academic aspirations generally had higher academic self-efficacy compared to children whose parents did not. Smith (1981)

found that both maternal and paternal academic expectations were significantly associated with adolescents' expectations and that the association was stronger for mothers' academic expectations than for fathers' expectations. Parents' academic expectations were also positively associated with adolescents' academic expectations in a sample of young immigrants (Aldous 2006). Thus, parents' expectations categorically influence the formation of adolescents' academic expectations.

Although expectation-value theory suggests that, in addition to previous levels of students' academic achievement, certain cultural stereotypes, such as gender and/or racial or ethnic roles, may influence parents' expectations, the empirical evidence for these statements remains uncertain (Wigfield and Eccles 2002, 91–120).

Parents' expectations regarding school results

One of the aspects with a great influence on school success is the family „ambitions” in the school field (Radulian 1967, 37).

Some research has shown that parents' expectations and beliefs about their children's learning are closely related to children's beliefs about their skills, as well as their achievement (Galper et al. 1997, in Samal 2012). Parents who were actively involved in various school activities had children who demonstrated greater social competence than the children of parents with lower levels of school contact. It was hypothesized that home involvement would be most strongly associated with positive classroom learning outcomes and that direct involvement in school would predict lower levels of behavior problems. Involvement activities at home, such as reading with the child at home, arranging a favorable environment for educational activities, and maintaining dialogue with the child about school activities, highlighted the strongest relationships with subsequent school skills.

The results of the research of Zhang et al. (2011) indicated that there is a reciprocal relationship between parents' expectations and adolescents' expectations (ie they had a mutual influence on each other). Moreover, there was a reciprocal relationship between expectations (of both parents and adolescents) and the academic achievement of adolescents. Gender and ethnicity analysis showed that the effects of parental expectations on students' expectations were stronger in men than in women. In terms of ethnic differences, the effects of adolescents' expectations were weaker than the expectations of African American parents compared to other ethnic groups (ie, Asian, Hispanic, and white).

A study by Goldenberg et al. (2001) examined the reciprocal relationship between parents' expectations and students' school performance in a sample of Latino families. The results of the study indicated that students' school performance influenced parents' expectations, but on the other hand (Benner and Mistry 2007, Goyette and Xie 1999), parents' expectations did not influence performance. In short, there is much empirical evidence to suggest that not only parents' expectations influence students' expectations and achievements, but also that achievement can influence parents' expectations.

Moreover, a study by Benner and Mistry (2007) tested the mechanisms by which the educational expectations of parents and teachers affect the academic achievement of adolescents. Their findings suggested that both parents' and teachers' expectations influenced young people's academic performance. Thus, high expectations of parents mitigated the negative effects of low expectations of teachers. The perception of parents' expectations (rather than the expectations themselves) can also positively influence adolescents' academic achievements. However, discrepancies between students' expectations and their perceptions of parents' expectations can lead to negative outcomes.

In their study of a diverse ethnic sample, Hao and Bonstead-Bruns (1998) found that adolescents who perceived that their parents had similar expectations to their own, tended to perform well academically. On the other hand, when a mismatch between students' and parents' expectations was perceived, students' academic performance suffered.

The results of research conducted by Dobson (1993) show that the first 18 months of life are crucial for intellectual development, and the strongest influence on children is the mother. Linguistic, intellectual, socio-affective skills are significantly influenced by direct contact with the child (verbal, visual, tactile, emotional). One of the inhibitory factors of the child's development is the limitation of the child's movement in a small space. Biparental families have a more positive influence on the child's development than single-parent families.

Conclusions

Family involvement is the strongest predictor of a child's educational outcomes. This dimension was significantly associated with children's motivation to learn, attention, the persistence of tasks, receptive vocabulary skills, and low behavioral problems. Family involvement in education has been identified as a beneficial factor in the learning of young children. Therefore, it is a key component of national educational policies and programs for early childhood (Samal 2012).

Parental involvement in children's school life has a significant impact on children's development and education and has benefits for all stakeholders: students, parents, teachers, and the community. However, many cultural, psychological, and social barriers can prevent or diminish these positive effects. An especially important role in restoring a fruitful relationship is played by the educational counseling services through the psycho-pedagogical assistance centers (Institute of Educational Sciences).

Hountenville and Conway (2008) confirmed that the more parents become involved in school activities in a sustained way in decision-making, supervisory, volunteer, para-professional, and home-based roles, the better for the academic achievement of students. They also proved that better academic results belong to students from families where there are daily routines, who monitor their children's extracurricular activities, shape the value of learning, self-discipline, and sustained work, express high but realistic expectations of achievement, show interest in children's progress by helping or checking homework, discuss the value of a good education and possible career options, and also stay in touch with children, teachers, and school staff.

References

- Aldous, Joan. 2006. „Family, Ethnicity, and Immigrant Youths' Educational Achievements.” *Journal of Family Issues* 27(12): 1633-1667. <https://doi.org/10.1177/0192513X06292419>
- Bandura, A., Barbaranelli, C., Caprara, G. V., and Pastorelli, C. 1996. „Multifaceted Impact of Self-Efficacy Beliefs on Academic Functioning.” *Child Development* 67(3): 1206-1222. <https://doi.org/10.2307/1131888>.
- Bayrak, Sevcan, and Köksal, Onur 2017. „Examining the Expectations of Parents from Preschool Education (Sample of Elazığ Province).” *The Journal of Academic Social Science* 5(45): 547-557. <http://dx.doi.org/10.16992/asos.12395>.
- Benner, A. D., and Mistry, R. S. 2007. „Congruence of Mother and Teacher Educational Expectations, and Low-Income Youth's Academic Competence.” *Journal of Educational Psychology* 99(1): 140-153. <https://doi.org/10.1037/0022-0663.99.1.140>.
- Cucoş, Constantin 2014. *Pedagogie* (Pedagogy) (3rd edition revised and added). Iaşi: Polirom.
- Desforjes, Charles, and Abouchar, Alberto. 2003. *The Impact of Parental Involvement, Parental Support and Family Education on Pupil Achievement and Adjustment: A Literature Review*. Great Britain. Department for Education and Skills. Research Report, 443. Queen's Printer. <http://dera.ioe.ac.uk/id/eprint/6305>.
- Dobson, James 1993. *Creşterea copiilor* (Raising children). Timișoara: Misiunea Creștină Noua Speranță.
- Duncan, Greg J., and Magnuson, Katherine. 2013. „Investing in Preschool Programs.” *Journal of Economic Perspectives* 27(2): 109-132. <https://doi.org/10.1257/jep.27.2.109>.

- Epstein, Joyce L. 1983. *Longitudinal Effects of Person-Family-School Interaction on Student Outcomes*. În A. Kerckhoff (Ed.). *Research in Sociology of Education and Socialization* 4: 101-128, Greenwich, CT: JAI Press.
- Eurydice. Rețea de informare despre educație în Comunitatea Europeană (Education Information Network in the European Community). 1996. *Combaterea eșecului școlar: o provocare pentru construcția europeană* (Combating school failure: a challenge for European construction). Bucharest: Alternative.
- Flouri, Eirini, and Hawkes, Denise 2008. „Ambitious-mothers-successful daughters: Mothers’ early expectations for children’s education and children’s earnings and sense of control in adult life.” *British Journal of Educational Psychology* 78(3): 411-433. <https://doi.org/10.1348/000709907X251280>.
- Gherasim, Loredana Ruxandra, and Butnaru, Simona. 2013. *Performanța școlară. Determinanți individuali și contextuali în adolescență* (School performance. Individual and contextual determinants in adolescence). Iași: Polirom.
- Goldenberg, C. N., Gallimore, R., Reese, L. J., and Garnier, H. 2001. „Cause or Effect? A Longitudinal Study of Immigrant Latino Parents’ Aspirations and Expectations and Their Children’s School Performance.” *American Educational Research Journal* 38(3): 547-582. <https://doi.org/10.3102/00028312038003547>.
- Goyette, Kimberly, and Xie, Yu. 1999. „Educational Expectations of Asian American Youths: Determinants and Ethnic Differences.” *Sociology of Education* 72(1): 22-36. <https://doi.org/10.2307/2673184>.
- Hao, Lingxin, and Bonstead-Bruns, Melissa. 1998. „Parent-Child Differences in Educational Expectations and The Academic Achievement of Immigrant and Native Students.” *Sociology of Education* 71(3): 175-198. <https://doi.org/10.2307/2673201>.
- Hill, N. E., Castellino, D. R., Lansford, J. E., Nowlin, P., Dodge, K. A., Bates, J. E., and Pettit, G. S. 2004. „Parent Academic Involvement as Related to School Behavior, Achievement, and Aspirations: Demographic Variations Across Adolescence”. *Child Development*. 75:1491–1509. <https://doi.org/10.1111/j.1467-8624.2004.00753.x> [PubMed: 15369527] – în Stormshak, E. A., Connell, A. și Dishion, T. J. (2009). An Adaptive Approach to Family-Centered Intervention in Schools: Linking Intervention Engagement to Academic Outcomes in Middle and High School. *Prevention Science* 10(3): 221-235. <https://doi.org/10.1007/s11121-009-0131-3>.
- Hountenville, Andrew J., and Conway, Karen Smith. 2008. „Parental Involvement Strongly Impact Student Achievement.” *The Journal of Human Resources* 43(2): 437-453. <https://doi.org/10.1353/jhr.2008.0027>.
- Institutul de Științe ale Educației. Laboratorul de Consiliere și management educațional (Institute of Educational Sciences. Educational Counseling and Management Laboratory). 2014. *Parteneriatul școală-familie-comunitate* (School-family-community partnership). Bucharest: Universitara Publishing House.
- Jinga, I., Negreț, I., Potolea, D., Ștefănescu, P., Ștefănescu, Ș., Toma, S., Tomșa, G., Vlăsceanu, M., and Vlăsceanu, L. 1989. *Structuri, strategii și performanțe în învățământ* (Structures, strategies, and performance in education). Bucharest: Publishing House of the Academy of the Socialist Republic of Romania.
- Kaiser, Micha, and Bauer, Jan M. 2017. „Preschool child care and child well-being in Germany: Does the migrant experience differ?” *Hohenheim Discussion Papers in Business Economics and Social Sciences* 21:3-47. <https://doi.org/10.1007/s11205-019-02064-5>.
- Manigo, Catrina, and Allison, Rinyka. 2017. „Does pre-school education matter? Understanding the lived experiences of parents and their perceptions of preschool education.” *Teacher Educators' Journal* 10:5-42.
- Manolescu, Marin (2008). *Evaluarea școlară: metode, tehnici, instrumente* (School assessment: methods, techniques, tools). Bucharest: Meteor Press.
- Manolescu, Marin, and Pașțuru, S. 2008. *Teoria și practica evaluării educaționale (activități, conduite, rezultate) formale și nonformale: structuri, forme, funcții, relații, mecanisme, disfuncții. Strategii și metode de evaluare și autoevaluare. Orientări noi. Aplicații*. (Theory and practice of formal and non-formal educational evaluation (activities, behaviors, results): structures, forms, functions, relationships, mechanisms, dysfunctions. Assessment and self-assessment strategies and methods. New guidelines. Applications). În Potolea, D., Neacșu, I., Iucu, R. B. and Pânișoară, I. O. (Coord.), *Pregătirea psihopedagogică. Manual pentru definitivat și gradul didactic II* (Psycho-pedagogical training. Handbook for graduation and teaching degree II) (pp.305-351). Iasi: Polirom.
- Mistry, R. S., White, E., Benner, A. D., and Huynh, V. 2009. „A longitudinal study of the simultaneous influence of mothers’ and teachers’ educational expectations on low-income youth’s academic achievement.” *Journal of Youth and Adolescence* 38(6): 826-838. <https://doi.org/10.1007/s10964-008-9300-0>.
- Negovan, Valeria, and Tomșa, Raluca. 2017. *Motivație și angajament în învățarea școlară* (Motivation and commitment in school learning). Bucharest: Universitara Publishing House.
- Radulian, Virgil. 1967. *Profesori și părinți contra insușelilor școlare* (Teachers and parents against school failures). Bucharest: Didactic and Pedagogical Publishing House.

- Rosen, Bernard C. and Aneshensel, Carol S. 1978. „Sex differences in the educational-occupational expectation process.” *Social Forces* 57(1): 164–186. <https://doi.org/10.2307/2577632>.
- Samal, Rojalin. 2012. *Parents' Attitude Towards Schooling and Education of Children*. Project Report Submitted to Department of Humanities and Social Sciences For the partial fulfillment of the requirement in Master's Degree in Development Studies. National Institute of Technology, Rourkela. No. 769008.
- Sălăvăstru, Dorina. 2004. *Psihologia educației* (The psychology of education). Iași: Polirom.
- Smith, Thomas Ewin. 1981. Adolescent agreement with perceived maternal and paternal educational goals. *Journal of Marriage and the Family* 43(1): 85-93. <https://doi.org/10.2307/351419>.
- Stănculescu, Elisabeta. 1997. *Sociologia educației familiale. Strategii educative ale familiilor contemporane* (*Sociology of family education. Educational strategies of contemporary families*). Iași: Polirom.
- Stoica, Adrian. 2003. *Evaluarea progresului școlar. De la teorie la practică* (*Assessment of school progress. From theory to practice*). Bucharest: Humanitas Educațional.
- Stormshak, E. A., Connell, A., and Dishion, T. J. 2009. „An Adaptive Approach to Family-Centered Intervention in Schools: Linking Intervention Engagement to Academic Outcomes in Middle and High School.” *Prevention Science* 10(3): 221-235. <https://doi.org/10.1007/s11121-009-0131-3>.
- Telleri, Fausto. 2003. *Pedagogia Familiei (Family Pedagogy)*. Bucharest: Didactic and Pedagogical Publishing House.
- Weiner, Bernard. 1992. *Human Motivation*. Sage Publication, Inc.
- Weisner, Thomas S., and Garnier, Helen. 1992. „Nonconventional family life-styles & school achievement: A 12-year longitudinal study.” *American Educational Research Journal* 29(3): 605-632. <https://doi.org/10.2307/1163259>.
- Wigfield, Allan, and Eccles, Jacquelynne. S. 2002. “The development of competence beliefs, expectancies for success, and achievement values from childhood through adolescence.” In G. Phye (Ed.), *Development of achievement motivation*. Academic Press.
- Zhang, Y., Haddad, E., Torres, B., and Chen, C. 2011. „The Reciprocal Relationships Among Parents' Expectations, Adolescents' Expectations, and Adolescents' Achievement: A Two-Wave Longitudinal Analysis of the NELS Data.” *Journal of Youth and Adolescence* 40:479-489. <https://doi.org/10.1007/s10964-010-9568-8>.

Protection of Geographical Indications at E.U. Level

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ABSTRACT: Already at the beginning of this century there is the impression that the protection of the source indications against false or misleading use is insufficient. In addition, the need to protect and encourage local, traditional production methods was highlighted. In France, the first statute was adopted which provided for the protection of geographical indications by a special title of industrial property, namely the designations of origin. Only products that meet quality standards are protected by designation of origin. Initially, the designations of origin concerned only wines and alcohol, but later, the concept of the designation of origin was extended to include other products (such as dairy products, especially cheese and butter), agricultural and vegetable products. Due to the success of French designations of origin, the same or a similar system was introduced in other countries, mainly in the wine and alcohol sector.

KEYWORDS: protection, geographical indication, Union law, copyright, legislation

Introduction

The term "geographical indication" was chosen by WIPO to describe the object of a new treaty for the international protection of rules and symbols that indicate a certain geographical origin of a given product. In this regard, it is intended that the term be used in the broadest sense (*lato sensu*) possible. It encompasses all existing means of protection of these rules and symbols, whether they indicate that certain qualities of a given product are due to its geographical origin (such as designations of origin), or simply indicate the place of origin of a product (such as are the indications of the source). This definition also covers symbols, because geographical indications are not only names, such as the name of a city, region or country ("direct geographical indications"), but also symbols. These symbols may indicate the origin of the goods without the literal name of the place of origin. Conclusive examples of such indirect geographical indications are: the Eiffel Tower for Paris, the Matterhorn for Switzerland or the Tower Bridge for London (Grossman and Lai, National Bureau of Economic Research, 2002)

On the other hand, the term "geographical indication" is also used in Council Regulation C E no. 2081/1992 of July 14, 1992, regarding the protection of geographical indications and designations of origin for agricultural and food products and in the TRIPS agreement. In both texts, this term is applied to products whose quality and characteristics can be attributed to their geographical origin, an approach that closely resembles the name of the type of origin of protection. In other words, the "simple" indications of the source are not covered by the specific notion of geographical indication used in these two legal texts. However, this presentation, an attempt to take into account all existing forms of protection of geographical indications, uses the term in a broad sense.

When geographical indications are considered as a special type of distinctive signs used in trade and thus as a special category of intellectual property, it is important to distinguish them from trademarks: while the trademark identifies the enterprise that offers on the market certain products or services, a geographical indication identifies a geographical area in which are located one or more enterprises that manufacture the type of product for which the geographical indication is used. Thus, there is no holder of a geographical indication, in the sense that a person or undertaking may exclude other persons or undertakings from the use of a geographical indication, but each undertaking located in the

region to which the geographical indication refers has the right to use that indication for products originating in that area. However, the right to attach a geographical indication to a product may be subject to compliance with certain quality requirements, as stipulated, for example, in administrative decisions governing the use of designations of origin (European Patent Office 2002).

Before studying the different forms of protection of geographical indications, it is useful to explain briefly the term of protection of geographical indications. First, protection means the right to prevent unauthorized persons from using geographical indications, either for products which do not originate in the indicated geographical area, or for those which do not meet the prescribed quality standards. Moreover, there is another aspect related to the issue of protection, namely the issue of protecting geographical indications so as not to become generic expressions.

Once a geographical indication has become a generic expression, it has lost its distinctive character and will therefore lose its protection. The question of whether a geographical indication is a generic and unprotected term is, in the absence of an international agreement, to be determined by national law. It is possible for a geographical name to be seen in one country as a geographical indication and to be protected accordingly, while in another country it is considered a generic or semi-generic term (Pantea 2011, 103).

Notable examples of such divergent treatment of geographical names are the French names Champagne and Chablis, which in France can only be used for products in a certain geographical area and can be produced in accordance with certain quality standards, while in the United States United States of America, for example, are regarded as semi-generic names and can therefore be used for wines that do not originate in that French production area.

This aspect of protection is especially important in the context of the international production of geographical indications and is addressed, for example, in the Lisbon Agreement for the protection of designations of origin and their international registration.

Creating a single system throughout the European Union

Instead of harmonizing the national laws of the Member States, a single system could be set up throughout the European Union. This would ensure a coherent system in the internal market, as well as more effective protection through the establishment of one-stop shops; thus, protection would apply throughout the EU (Boldrin and Levine 2003, 41).

If such a system is introduced, the question remains whether the current national systems for the protection of geographical indications should coexist with the new system at EU level. Such parallel systems already exist, for example in the case of trademarks, and will exist in the future in the field of patents. These are a “toolkit” approach, which allows users to choose the level and extent of the relevant protection, according to their needs.

An EU-wide system would be easier to implement, but it also means that the protection of commercially relevant names is only in one Member State or only in one region of a Member State. It should, however, be extended to all other Member States.

If parallel systems are used, more safeguards would be needed to ensure the proper functioning of the system, including a minimum level of harmonization of national laws in their interaction with EU law.

Potential conflicts could be avoided by introducing a comprehensive and exclusive system at EU level, similar to the one already implemented in the agricultural sector. Given that there would be no EU-wide protection granted at national level, transitional arrangements should be established for existing geographical indications at national level.

In principle, geographical indications could be protected without the need for registration. Without registration, it is not necessary to organize administrative procedures to provide protection. Systems protecting geographical indications without registration exist in a Member

State (Latvia) and also in Switzerland, where the law provides for specific measures and sanctions to protect consumers from misleading use of unregistered geographical indications.

The absence of a registration system means that there would be no public register in which the names of existing geographical indications as well as the relevant owners could be identified. This could lead to uncertainty about the existence or scope of protection. It would also be much more difficult to ensure that the protection granted is respected. An EU-wide registration procedure could follow the example of geographical indication protection systems for agricultural products (for which an EU-level registration system already exists) (Thachuk 2002, 112).

Thus, in the event of a dispute, registration would provide more certainty, in particular as regards enforcement rights. Of course, with the introduction of a system with a registration procedure, companies would have to perform administrative tasks related to this process (filing an application for registration, appeals, potential fees, etc.). This would generate some administrative costs. Additional costs that would also result from the subsequent management of the geographical indication granted (e.g., implementation, litigation).

If an agreement is reached on a registration system, the issue of setting up a registration procedure would arise. Applications for registration of geographical indications must be analyzed according to the relevant local context (including knowledge of the characteristics of local raw materials, local traditions, etc.). It may be difficult for the single EU body to be solely responsible for carrying out these tasks. On the other hand, if local experts were allowed to examine the conditions for granting protection, there is a risk of divergent local practices. This could damage the overall coherence and credibility of the system.

In the case of agricultural products, this problem has been resolved through a two-stage system, in which the central authority entrusts this aspect of the analysis to the national authorities closest to the geographical environment and the human factors concerned. In this model, a clear distinction should be made between common criteria at EU level, which should be verified by the central authority, and local particularities, which would be verified by several local authorities. At present, in the case of agricultural products, the European Commission manages the register of geographical indications at EU level (Pantea 2003, 133).

Geographical indications are special intellectual property rights in terms of their legal nature, in other words they do not represent individual private property, but belong to a whole community of producers that comply with the predefined requirements of the specifications and are linked to a geographical area. These producers also carry certain values that are essential to the whole community, such as local traditions and cultural heritage.

For this reason, public authorities often support local producers of products with geographical indications and ensure that their rights are respected. For example, the EU has established *ex officio* protection of geographical indications for agricultural products, under which public authorities are responsible for implementing a system for verifying compliance with legal requirements and ensuring the proper functioning of the system. However, the introduction of a similar system of geographical indications for non-agricultural products would impose additional obligations and generate costs for public authorities.

For certain intellectual property rights, such as patents, designs, maintaining a monopoly for a very long time would not be beneficial to society. Consequently, their legal protection has a limited duration. This does not appear to be the case for trademarks and geographical indications that protect certain names.

For example, a registered Community trade mark is valid for ten years from the date on which the application was filed, and the registration may be renewed for ten years for an indefinite period. A unitary system of geographical indications for agricultural products - the purpose of which is to preserve regional / local heritage, traditions and know-how - is protected indefinitely, without any requirement for renewal. Most Member States that have established a *sui generis* system for the protection of geographical indications for non-agricultural products also offer protection indefinitely, without any requirement for renewal.

There may be situations in which the protection granted should end, even if the protection of geographical indications has been granted indefinitely or if the defined period has not ended. Protection could be revoked, as in the field of geographical indications for agricultural products, if the products do not comply with the conditions set out in the specifications or if no product covered by the geographical indication is placed on the market for a considerable period of time⁵³. An annulment procedure could be managed by the body responsible for registration or, alternatively, directly by a court. This procedure would provide an additional level of control and contribute to the overall credibility of the potential system, but could create uncertainty for rightholders and could lead to increased costs for the body responsible for this process (Lemley 2005, 99).

A clear relationship should be defined between a potential system of geographical indications for non-agricultural products and trademark law, in order to avoid legal uncertainty and confusion related to conflicting names.

The general principle of intellectual property law applicable to trademarks, designs, patents, etc. provides that the earlier right prevails (this is the principle “*Prior in tempore, potior in jure*”). Applying this principle in the context of the relationship between brands and geographical indications for agricultural products could help to simplify the whole system.

The unitary system of geographical indications for agricultural products contains specific provisions on the relationship between geographical indications and marks. These are:

- a) The reputation of an already existing trade mark may prevent the registration of a geographical indication, if such registration could mislead consumers as to the true identity of the product;
- b) Any mark which does not fall into this situation and for which an application has been filed, which has been registered or which is established in good faith before the date of filing of the application for registration of a geographical indication at EU level should coexist with the registered geographical indication;
- c) The registration of a geographical indication should prevent the registration of a mark for which an application has been filed after the geographical indication, if the registration of the mark would conflict with the protection afforded to the geographical indication (Scherer, 2005, 208).

The Paris Convention for the Protection of Industrial Property does not include the notion of geographical indication. Article 1 para. 2 defines as subjects of industrial property, among others, the indications of the source and the name of origin. This is the traditional terminology still applied and still officially used in WIPO conventions and agreements.

According to this terminology, the following difference is made between the indications of the source and the name of origin: “source indication” means any expression or sign used to indicate that a product or service has its origin in a country, region or place, while “designation of origin” means the geographical name of a country, region or place, which serves to name a product originating there, whose characteristic qualities are due exclusively or essentially to the geographical environment, including natural or human factors; or both natural and human factors.

It is very important to highlight the difference between the indications of the source and the name of origin, namely that a product designated by a name of origin must possess certain characteristic qualities that are due to the geographical environment, including natural or human factors. In other words, the use of a designation of origin requires a quality link between the product and its region of manufacture.

This qualitative link consists of certain characteristics of the product, which can be attributed exclusively or essentially to its geographical origin, for example, climate, soil or traditional production models. On the other hand, the use of an indication of the source on a certain product is subject only to the condition that this product has its origin in the place designated by the indication of the source. The name of the origin can be understood as a special

type of indication of the source. According to this traditionally applied terminology, the term “source indication” includes the names of the origin, but, in its general use, it has become a designation for all indications of the source that are not considered to be names of origin.

An EU-wide response to the challenges outlined above could take various forms. Better protection of geographical indications should be compatible with the current European and international legal framework and should address both economic and stakeholder needs. The current system of geographical indications for agricultural products is a clear point of comparison. In the next section of the document, the Commission wishes to obtain the views of stakeholders on several parameters considered essential for the design of a possible EU initiative on the protection of geographical indications for non-agricultural products (World Intellectual Property Organization, 2004).

Possible targets for any new measures range from meeting the minimum requirements for the protection of geographical indications set out in the TRIPS Agreement to introducing additional criteria, such as those included in EU legislation on geographical indications for agricultural products.

The most commonly used indication to refer to a product that may benefit from a protected geographical indication is the name of the product. Most often, this includes the name of the geographical area (a particular place, region or country, for example, Herend), which may be associated with the name of the product as such (e.g. Scottish tartan or Aubusson tapestry).

Names other than geographical names may constitute a geographical indication, provided that the association with the place of origin is not ambiguous. Extending the definition of the geographical indication to such a name would allow several products to be covered. This solution has also been adopted in the EU geographical indication system for agricultural products, according to which feta cheese and Spanish Cava sparkling wine are, protected geographical indications (European Patent Office 2008).

Another option, which would allow an even wider coverage of non-agricultural products, would be to protect geographical indications for unmarked signs and symbols that are unambiguously associated with a particular region, place or country, for example the contours of a geographical area.

Conclusions

The protection of a particular geographical indication may be based not only on a public or administrative document, but may result from a private initiative. With regard to the latter approach, collective marks or certification marks provide a means of protecting geographical indications independently of statutory or judicial measures.

The concepts of collective mark and certification mark (or, in some countries, guarantee mark) differ from one country to another. Depending on the applicable national law, a collective mark or a certification mark may serve to indicate, *inter alia*, the origin of goods or defects and, therefore, to a certain extent, may be appropriate for the protection of a geographical indication. (Michaels 2002, 144)

A collective mark is a mark the use of which is permitted only to members of a collective body. Such a body may be an association or cooperative of producers, manufacturers or traders. The collective trademark is owned by the association, which grants the right to use it exclusively to its members. The association can be local or foreign. A collective mark indicates that the person who uses it for his goods or services is a member of the association holding the collective mark. Usually, the use of the collective mark is regulated by regulations that must be submitted to the industrial property office together with the application for registration.

The question of whether a geographical indication can be registered as a collective mark depends entirely on a certain national law. Some national trademark laws exclude the registration of geographical indications as collective marks, although, more recently, this exclusion has been repealed by some countries (Kimberly and Thachuk 2002, 79).

Once a geographical indication has been registered as a collective mark, the association that owns it has the right to prohibit its use by persons who are not members of the association. However, in case of conflict, with an older right, the members of the association may be excluded from the use of the collective mark. Moreover, the registration of a geographical indication as a collective mark cannot, per se, prevent the mark from becoming a generic term. In addition, the law of some countries contains strict requirements for use which may result in the cancellation of the registration of the collective mark if it is not used continuously.

Unlike collective marks, certification attestation marks and guarantee marks are not owned by a collective body, such as an association of manufacturers, but by a certification authority. Such authority may be a local council or an association which is not engaged in the production or marketing of that product. The latter is of particular importance, because the holder of the certification mark is the one who must ensure that the goods bearing the certification mark possess the certified qualities. A certification mark may be used to certify, inter alia, the origin of products or services. The application for registration of a certification mark must be accompanied by the regulations governing the use of the certification mark. Regarding registration of geographical indications as certification marks and guarantee marks, the same principles apply as for the registration of collective marks (Mark and Lemley 2005, 109).

If a geographical indication has been registered as a certification mark or a guarantee mark, it can normally be used by all those whose products meet the requirements stipulated in the regulation. However, such a right of use may not exist in the event of a conflict with an older right. The institution holding the certification mark or the registered guarantee mark has the right to prohibit the use of that mark by persons whose products do not meet the requirements stipulated in the regulations. In general, the protection of a geographical indication by its registration as a certification mark or guarantee mark is equivalent to that conferred by registration as a collective mark.

A special form of protected geographical indication similar to the concept of collective marks is in France “agricultural label” (in French “agricultural label”). It is governed by the Agricultural Labeling Decree of June 1983, last amended in 1990, and may be applied in connection with agricultural products. The agricultural label is a collective mark certifying that the food or non-nutritive and unprocessed agricultural product (such as cereal seeds) has a combination of specific characteristics and a higher level of quality than similar products.

References

- Boldrin, Michele and Levine, David K. 2003. *The Case Against Intellectual Property*. Washington University in St. Louis, 2002
- European Patent Office. 2002. *Symposium on Enforcement of Intellectual Property Rights and Patent Litigation*, Mediengruppe Universal, Germany.
- European Patent Office. 2008. *Symposium on Enforcement of Intellectual Property Rights and Patent Litigation*, Mediengruppe Universal, Germany.
- Grossman, G. and Lai, E. 2002. *International Protection of Intellectual Property*. National Bureau of Economic Research.
- Lemley, Mark A. 2005. *Property, Intellectual Property, and Free Riding*. Stanford Law School.
- Michaels, A. 2002. *A practical guide to trade mark law*. Third edition. Sweet&Maxwell.
- Pantea, M. 2010. “The right of intellectual property. The intellectual capital – the unidentified fortune of the organizations.” *Journal of Criminal Investigations*, Vol. III, issue 6/December. Craiova: Sitech publishing House.
- Pantea, M. 2011. “L’industrie des contrefaçons dans le domaine pharmaceutique” (“Industria contrafacerilor în domeniul produselor farmaceutice”), in *Revista Română de Dreptul Proprietății Intelectuale*, Year VIII, no. 4 (29).

- Scherer, Frederic. 2005. *Essays in Honor of Edwin Mansfield: The Economics of R&D, Innovation, and Technological Change*.
- Thachuk, Kimberly L. 2002. *Terrorism's Financial Lifeline: Can it be Severed Strategic Forum*. Institute for the National Strategic Studies Defense University, Washington DC, No.191, May.
- World Intellectual Property Organization, WIPO Intellectual Property handbook: policy, law and use, 2004. Second edition
- World Intellectual Property Organization, WIPO Magazine. March-April, 2014.

Nothingness in Philosophical and Theological Optics

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ABSTRACT: The problem of nothingness is not a new one, but one can say that it is as old in philosophy and theology as the existential problem. With the existential questioning as an opposite twinning, the idea of nothingness was born, although it did not enjoy the same attention as the first one, nor did it enjoy the same development of ideas. In the following, the idea of nothingness from a philosophical perspective will be approached very briefly, then a combined one, after which it will be a theological approach from a "separate" perspective.

KEYWORDS: nothingness, infinite, created, uncreated, ineffable, nothing worthwhile

Philosophical perspective

The first problem that arises in the subject in the question is the very definition of nothingness. This raised serious problems for both philosophy and religious thinking. If one succeeds in defining nothingness, to some extent one succeeds in substantiating it and implicitly in "materializing" it, which would make it easy to study. Or, this is precisely one of the most difficult problems of nothingness. It is no coincidence that nothingness enters the philosophical discourse, usually in multiple and diverse ways. We are dealing with nothing as undetermined (in Anaximander), with nothing thought as a counterpoint to being (in Plato's Sophist), as absolute, as transcendent, as foreign, and these are just some of its images. Potentially, however, nothingness can take infinite forms because it is, in turn, infinitely undetermined (Kirk, Raven 1971, 117). For this reason, nothingness, as an intentional object of philosophical interrogation, is outlined in the first phase negatively, as something completely indeterminate - this is also the first "historical" image taken from nothing in the early epoch of Greek philosophy when philosophy was looking for its way. The Greek word *Apeiron*, used by Anaximander in its fragment, indicates exactly this "undetermined something" from which any possible determination, delimitation or order is born (Rotaru 2005, 79-80).

We owe the premise of bringing nothing to the limits of ontology to Parmenides, the philosopher who offered in the poem *On Nature* "The oldest testimony of philosophy that with the path of being one must *meditate on the path of nothingness*, for turning one's back on nothing and stating that obviously nothing exists, is a disregard for the question of being" (Heidegger 1985, 119).

Nothingness was avoided in Greek thinking, obstinately interested in what presence represents through the verb "to be". The Platonic tradition, in which the idea (*idea*) also refers etymologically to the "form" (*eidos*), to the "aspect", to the reality that is first of all visible, palpable, audible and only then intelligible. Plato shaped his world by his thinking, refusing its limitlessness and indeterminacy, by marginalizing nothing, when in fact, it was their very shadow (Aristotle, *apud* Stobaios, 18).

For the use of Moraru (2021), "nothingness is a stable phenomenon, and does not present itself to our consciousness as independent, but it is defined precisely by its instability, by its perpetual mobility, by its capacity to work relentlessly in its otherness. In other words, nothing is constituted as "in itself", but is, by its indeterminacy, even the "without- the- self", which requires a different type of targeting than other existences precisely because it is not, properly- said, an existence."

Damascius (2006, 69), one of the most careful thinkers of nothingness, speaks of an "unspoken consciousness" of nothingness, a form of indiscriminate acknowledgement through the feeling in which this phenomenon is taken over by philosophical consciousness. Thus, it is observed that the specific intentionality of targeting this phenomenon in its image, of nothingness as nothing, is impossible to grasp in concept and goes beyond the possibilities of traditional philosophy. In this sense, one can speak of a "feeling of nothingness". In such a situation, the definition must remain ineffective for it to not falsify anything.

As "something indeterminate", it is caught in only one category, only in the category of substance or, if we were to consider Aristotelian terminology, in the category of *ousia*. Such a categorical attachment to substantiality is the necessary condition for our phenomenon to be addressed by interrogation, and at the same time, we are dealing with the first meaning of nothingness - that of completely indeterminate *ousia*. Under this hypostasis, it has not yet become existing, but it is not non-existent either (Vladuțescu 2001, 510). Nothingness once entered into categorically by way of substance, continues to be defined, to be delimited in the sense of the Greek aphorisms. Conceived in this way, the definition is nothing but the "horizontalization" of nothing, the delimitation of a horizon of its determinations that corresponds to its "substantial" indeterminacy. Because it has to do with a determination that must keep the proximate gender of the indeterminate door, the form that the delimitation of nothingness takes in a categorical context is the apophatic one (Vladuțescu 2001, 173).

One of the things related to syntax is highlighted in the verb "to be" and cannot have the same meaning when it refers to existences, categories and nothingness. In addition to the two functions of this verb - the copulative and the existential - a third function must be highlighted, namely the metaphorical one. A parallel could be drawn between how the word metaphor is used and how Blaga (2011, 358) defines man as a "metaphorical animal" in terms of his relation to mystery. Here language can be metaphorical only as long as it tries to express the nothingness; man is metaphorical only in so far as he tries to infiltrate with the thought of mystery which is nothing but a hypostasis of nothingness.

A philosophical-religious perspective

No matter how much one tries to delimit the concept of nothingness approached by philosophy and religious beliefs, the approach would not have a great deal of success, since the man himself is a religious being and addressed the problem of its existence or lack in terms of his beliefs. This is one of the reasons why philosophical thinking has sometimes intertwined with religious thought. Therefore, we find opinions that include both aspects of interpretation and whose origin is influenced, as it appears from the works of several philosophers.

As a result, philosophical interrogation is a "second step" of research because it is preceded by an effective intuition of nothingness. It is an answer to an original effect that opens the possibility of the question and whose importance has been noticed since the beginning of philosophy by all great thinkers. The ancient Greeks such as Plato, Theaithetos, Aristotle, defined this effect as "amazement"; with Descartes, doubt enters the scene as an effect, which opens the horizon of philosophy (Decartes 2004, 265); in Heidegger (2003, 250), this role is played by anxiety and so on. In Thomas Aquinas (2009, 8), "natural reason must serve the faith, just as the natural inclination of the will is subject to love." If the works of these thinkers are carefully observed, one can always find the presence of nothing in strict connection with the original effect which gives rise to the philosophical interrogation. Therefore, it can be concluded that such an effect is determined, at least in part, by the cultural context. Otherwise, one could not know why amazement was essential for the ancients, while anguish is essential for contemporary philosophers and doubt for those below the sign of modernity. Therefore, the fundamental structure of human affectivity must be taken into account, starting from which all these affections are constituted as ways of opening

the horizon of affective interrogation. As can be seen, this affective openness is pre-logical and pre-categorical.

Although some consider Heidegger to remain one of the purest expressions of the Greek tradition of thought, it can be seen in his writings that *nothing* reminds the hermeneutic of an important Kabbalistic concept, called *ain sof* (the non-existent, the great nothing). Explained by *the Zohar* as a definition of unconscious transcendence, of pre-creation reality, the nothingness of Kabbalah is "something formless and like something." The Christian Kabbalah told him when *infinitus*, as a memory of Eriugena (*infinitus incomprehensibilisque abyssus*), when we were *gentem* (without a living being). (Eriugena, 18). Nothingness by Heidegger seems a bivalent concept, in which both the being of the Greeks and the non-being of Judaism are mirrored as two facets of the same mystery. Hence the conclusion of the whole Heideggerian phenomenology: "being and nothingness constitute a whole" (Heidegger 1999, 114).

The further humanity moved away from *khaos*, the more *ain sof* has mastered man's thinking with a questioning know to the Jewish tradition: which is "nothing from which God made all things" (*2 Maccabees 7:28*) (May 1978, 39).

Von Rosenroth synthesizes the cosmogony of Kabbalah, concluding that all other lights have gradually descended (*in graduales descensus Luminum ad prima illa Luce infinita que Aen-Sof dicitur*), forming the material and spiritual world, as two facets of the same mystery. We are talking about the same von Rosenroth whom Leibniz said with admiration that he was "perhaps the most learned man in all of Europe in terms of knowing the most hidden teachings of the Jew" (Knorr von Rosenroth 1677, 195). It was normal from the perspective of Jewish philosophers and connoisseurs of these philosophies regarding origins so that the spiritual aspect of creation out of nothing would be captured. Not only the material world is created from nothing, according to *the Bible*, but also the spiritual world. God is the creator of the material world, but He is also the creator of the spiritual world. Moreover, on an ontological basis can be rethought the other "sciences of the spirit" which, by their very object, are connected with nothing because the spirit is, after all, only a hypostasis of the ineffable entered the realm of consciousness.

The biblical perspective on nothing

In this segment, there is no analysis of absolute nothingness, as defined by some philosophers, but rather a new untapped vision of the proposed *value of nothingness*. The Bible brings into question, in addition to the pre-existing nothingness of matter and spirit, a value of nothingness that does not pose an ontological problem, but rather a value one. To support this view of nothingness, brief hermeneutics of a biblical text that the prophet Isaiah writes in his book is needed: "*Surely the nations are like a drop in a bucket; they are regarded as dust on the scales; he weighs the islands as though they were fine dust. Lebanon is not enough for altar fires, nor its animals enough for burnt offerings. Before him all the nations are as nothing; they are regarded by him as worthless and less than nothing*" (The Holy Bible, Isaiah 40:15-17).

"Nothing", which we find in Hebrew, has two forms: *nyia*,,,,,.....and *nyia*. The word appears predominantly in the book of Isaiah, in places that are in the immediate vicinity of the analyzed text, and only once in Haggai 2,3 and Isaiah 40,23; 41,12-24 (Brown, Driver, Briggs 2003, 156).

In order to make understanding the idea that God wants to convey, the word "nothing" will have to be equated with its mathematical value, i.e zero. Nothing means nothing and is worth... nothing. As specified above, including in philosophical- mathematical analyzes, nothing can be balanced with anything other than 0.

If we consider the countless verses that speak of God and if we give a mathematical value to these statements, God is infinite in all His attributes and has infinite value. The translators of the GBV Bible, 2001, also do this of mathematical valorization, where in verse

17 of Isaiah 40 they make the following annotation: "Less than zero (nothing)." Translators of *The Vulgate Bible* translates verse 16 as follows: " *As before all nations are as if they were not, so are they before Him.* " In other words, all nations can be considered nothing, zero, or non-existent in the eyes of God. The translators of the Catholic Bible in Iasi reinforce this idea when, in the verse from the prophet Malachi, they add the following: " The text seems to allude to nothing that is a man (according Genesis. 3:19; Job 10:19) and therefore to the ease with which God can reduce man to nothing (according Genesis 18:27).

The prophet Isaiah in the first two verses uses four physical analogies, operating with known, comparable notions, precisely to facilitate the understanding of the relationship between God and man or all people in general.

The bucket that Isaiah writes about is translated as a pail, an object made of wood and used to remove drinking water from wells. What did a single drop of water in a pail mean? Nothing, absolutely nothing, because a drop of water put in a wooden pail, if it is dry, is absorbed and disappears or become useless. Dust and scales are the second series of comparisons to suggest the value of all people. For the scales of Isaiah's day, how efficient would it have been, how much could a speck of dust have influenced? Nothing! This is the value of humanity in general, in the eyes of God.

For God, creation or parts of creation, such as the islands known to man, weighed no more than a speck of dust, suggestive of the infinity of God in all possible respects: value, power, wisdom, knowledge, love, kindness and so on. In Psalm 104:1, it says " *Lord my God, You are boundless and very great!*" This is just one of the many verses that mention God's infinity.

All these are comparisons that do not exclude the existence of creation or creatures but only lead to a value comparison between God and man, or God and material creation, including the spiritual one. Only in the third verse do we work with abstract notions, giving up analogies in the material world. It could be concluded that verse 17 is the sum of the previous verses.

The argument that these comparisons are used to highlight the value, and not the very existence of people, lies in the two verbs used, namely "value", not overriding the one used previously, "I am " verse that highlights the existence. The problem of *worthlessness* from a biblical perspective is different from that of nothingness from a philosophical one, especially if one considers absolute nothingness.

Mathematically, if a fraction has the infinite denominator and the numerator close to zero, it tends closer to zero and is neglected, as if it did not exist in that equation. Even if the fraction has the infinite denominator and the numerator is ten billion- approximately how many people have always existed- the numerator will still tend to zero. If we add to the number of ten billion angels, whose number is not known, the counter also tends to zero. It is well known that angels are a little higher than humans. The only one that is infinite in all is just God; all that is created cannot be compared to the Creator, and any evaluation is unreasonable. If it were physically equivalent - although God is an infinite spirit, totally immaterial and incomprehensible- all of humanity would be like a speck of dust placed next to the whole enormous universe. Man- made of nothing can claim, before his Creator, to be nothing but nothing.

If this plea were put in a mathematical equation, it would help to understand more clearly the idea of *nothing of value*. The Bible makes several kinds of comparisons: between good people and bad people; between the material world and the human soul that bears the image of God; between angels and humans and others. Each time the value ratio between these parts will be small or slightly higher. However, every time God is included in the equation, every time all people, any creature, are considered nothing. This idea is not supported by anyone, but by God's greatest people of all time. The first to support it is the great prophet, Moses. When the people rebel against him and Aaron, he declares, " *Who are*

we, that you should complain against us? The Lord has heard your complaint against Him, for we are nothing: your complaint is not against us, but against the Lord" (Exodus 16: 7b-8b). The apostle Paul wrote to the church at Corinth: "So neither he who plants nor waters is anything but God who makes it grow." (1 Corinthians 3:7). The Corinthians created parties within the church, making comparisons between themselves as a group, but also between the spiritual leaders they "chose". The apostle's message is that the work, as a background, is not of one of the apostles, but God. Because God appears in this context, in which the believers in Corinth, the apostle's Paul, Apollo and Peter, are put together, he declares himself and the other apostles as nothing. The same idea is supported by the apostle, when again after a while he has to defend his cause before the same church in Corinth. This time the context and the equation remind us of Christ (conform 2 Corinthians 12: 9-11). And here he writes, "At least I am nothing." The same rule applies, because Christ is the infinite God. Then all the apostle Paul reiterates in the Epistle to the Galatians, to those who thought themselves valuable that they were but "nothing" (Galatians 6:3). This time, the apostle Paul, compared to any theologian of the time, cannot be suspected of ignorance and superficial words.

Conclusion

If philosophical systems of all times have approached the issue of nothingness, trying to define it, religious systems have not ruled out approaching this subject either. The current article (discourse) has tried to highlight another type of nothingness, namely the value of nothing, which the authors of the Bible have emphasized throughout it. This idea has its support even in mathematical reasoning, but it has profound theological consequences: the fact that an infinite God, of absolute satiety, chooses to intervene in the salvation of humanity, demonstrates how infinite is His love for man whose value is zero.

References

- ***, *The Holy Bible*. 1984. NIV. New York: International Bible Society.
- ***, *Bible*. 2001. GBV. Dillenburg, Bucharest.
- ***, *Vulgata Bible*. 2005. Isaiah's prophecy, Blaj, 1760-1761, Bucharest: Romanian Academy Publishing House.
- ***, *Bible NTR*. 2007. International Bible Society.
- ***, *Catholic Bible*. 2013. *Mal.* 3:21, Iași.
- Aristotel, *apud Stobaios, Eclogae physicae*, I.
- Brown F., S Driver, C. Briggs. 2003. *The Brown-Driver-Briggs Hebrew and English Lexicon*. Massachusetts: Hendrickson Publishing Inc.
- Blaga. L. 2011. *Triology of culture*. Bucharest: Humanitas.
- Damascius. 2006. *About the first principles: aporias and solutions*. Bucharest: Humanitas.
- Descartes, R. 2004. *Rules of mind guidance. Meditations on the first philosophy*. Bucharest: Humanitas.
- Heidegger M. 1999. *Introducere în metafizică (Introduction to metaphysics)*. Bucharest: Humanitas.
- Heidegger, M. 2003. *Being and time*. Bucharest: Humanitas.
- Heidegger, M. 2006. *Was ist Metaphysik?* Leipzig: Ed. Klostermann.
- Kirk, G.S. and J.E. Raven.1971. *The Presocratic Philosophers*. Cambridge: Cambridge University Press.
- May, Gerhard. 1978. *Schöpfung aus dem Nichts*. Berlin: De Gruyter.
- Rosenroth, von Knorr. 1677. *Kabbala denudata seu Doctrina Hebraeorum transcendentalis et metaphysica atque theologica...*, tom. I, 2. Sulzbaci: Typis A. Lichtenthalerj.
- Toma din Aquino. 2009. *Summa Theologica. I*. Iași: Polirom.
- Moraru, C-F. 2021. *Aesthetic Categories and Experience Nonjudicative*. Available online at http://www.institutuldefilosofie.ro/e107_files/downloads/Studii%20de%20teoria%20categoriilor/vol.%209/Cornel-Florin%20MORARU,%20Categoriile%20estetice%20si%20experienta%20nonjudicativa.pdf.
- Rotaru, Ioan-Gheorghe. 2005. *Istoria filosofiei, de la începuturi până la Renaștere [The history of philosophy from the beginning until the Renaissance]*. Cluj-Napoca: Cluj University Press.
- Vladuțescu, G. 2001. *An encyclopedia of Greek philosophy*. Bucharest: Paideia.

Differences of Nutrition in the Elderly Population with Type 2 Diabetes in Romania, Russia and Japan

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ABSTRACT: Romania, Russia and Japan are 3 countries where the differences in nutrition are not very large, but which shock us by the increased number of diabetics in the elderly population over 70 years, countries with a low birth rate and an elderly population in addition to diabetes type II suffers from hypertension, cardiovascular disease, kidney disease, neurological disease and a lot of loneliness. Prevention and monitoring programs are deficient in Romania and Russia, but excel in Japan where the state has more responsibility for the elderly population, in a relatively short time, have led to new treatments and diets, which have come to prolong the life of the elderly diabetic, ignored by certain public health systems in certain countries with the lifestyle and the consequences of this lifestyle.

KEYWORDS: nutrition, diabetes, Yoshinori Ohsumi, and eating habits

The correlations between the degree of glycemic balance and the appearance of micro and macrovascular complications of diabetes have been intensively researched over time. With the advent of trials in large clinics, which included a significant number of patients in many centers, pertinent conclusions could be drawn that led to the development of treatment guidelines and the establishment of therapeutic targets for both metabolic control and treatment of associated risk. Analyzing the literature, we found numerous data on the link between diabetic neuropathy and the importance of glycaemia control between old population from Romania, Russia and Japan.

Diabetes is common in the elderly population. By the age of 75, approximately 20% of the population may be afflicted by this illness. Diabetes in elderly adults is metabolically distinct from diabetes in younger persons and the treatment is different in this age group. Diabetes is associated with an important poor life quality and with a significant morbidity due to macrovascular and microvascular complications. The optimal glycemic level and the changes in the risk factors can reduce the risk of complications in the elderly population.

With age, there are more changes in the carbohydrates metabolism which interact with the genetical history to explain the incidence of diabetes in the elderly. Moreover, lifestyle plays an important role. Obese people (especially those who have the abdominal obesity type), with a diet rich in saturated fats or who are sedentary, have more chances to develop diabetes once they age said Roxana Mateescu from Romanian Bucharest Hospital St. Luca (Mateescu n.d. 50). Aging and hormonal factors that influence atherogenesis in women with diabetes in opinion of Vasile Anestiadi (Anestiadi 2018, 50).

Epidemiological studies show a higher incidence of atherosclerosis (ATZ) and ischemic heart disease (CPI) in postmenopausal diabetic women (FDPM) compared to nondiabetic postmenopausal women (FNDPM). It has also been shown that in diabetics, the gender difference in ATZ rates depends on the age of the patients, and these rates have a tendency to equalize after the age of 40. The same phenomenon is specific to ischemic heart disease. The aim of the study the proposed goal was to research the hormonal parameters in FNDPM and FDPM in terms of predisposition to atherosclerosis and ischemic heart disease, the Romanian researcher Vasile Anestiadi showed in his study (Anestiadi 2018, 50).

American researchers have discovered a special protein complex - a molecular switch responsible for the immune response to chronic inflammation in the body. Deactivating this complex allows you to stop the aging process, the development of cancer and diabetes, as well as

age-related diseases such as Alzheimer's and Parkinson's. The results of the study were published in the journal *Cell Metabolism* (Sputnik 2020).

In the elderly, under stress or adverse environmental conditions, there is a constant hyperactivation of this complex and, as a result, overloading the body's immune system and chronic inflammation, which causes various destructive diseases - from sclerosis and dementia to diabetes and cancer emphasizes the same authors (Sputnik 2020).

The adoption of a varied and calorically balanced diet, along with physical activity and regular screening actions, are some of the measures taken in Romania that must be taken into account for prevention, control and, consequently, proper management when it comes to diabetic neuropathy. In cases of diabetic neuropathy, the most common complication of diabetes, adopting a balanced diet rich in vegetables, fruits, whole grains, fish and nuts allows you to keep your blood sugar levels within normal limits.

People with diabetic neuropathy should also adopt an appropriate diet, eat at regular intervals and eat moderate portions, of the same consistency each time, because nutrition is very important in the effective control of diabetic neuropathy, "said Assoc. Prof. Ph.D Ioan A. Vereşiu, president of the Diabetic Neuropathy Society (Vereşiu et al. 2015). Longevity is due to the sober, quiet lifestyle, food rich in fish and seafood, seaweed, consumption of fermented foods, soy, teas. In the lifestyle, singing is a form of social support, physical movement is added, thermal baths.

Life, as we know, is identified with physical movement. There is no life outside the movement and because of this, immobility is equivalent, at least biologically, to death - says Arcadie Percek (Percek 1987, 192).

Physical movement is a true architect of the body, said Arcadie Percek in his book (Percek 1987, 191-192). Physical exercise prolongs the life of diabetics and according to the latest research prevents cancer. 14% of patients with diabetes are prone to kidney cancer. The Japanese are the ones who make the most movement and respect this. In urban areas, Romanians like Russians are more sedentary, but in rural areas the countryside and households are the strongholds of the peasants.

The statement that movement also accelerates psychic processes, reviving the spirit as such. J. J. Rousseau perfectly intuited this reality about two centuries ago, when he stated, somewhere in his writings, that "sans mouvement la vie n'est qu'une letargie", respectively that "life without movement is nothing else than a simple lethargy" is quoted by Arcadie Percek in his book (Percek 1987, 190).

Japan is the country with the longest living people in the world, it is expected that in the near future they will reach over 1 million people in 100 years the longest living now is a lady who is 116 years old. Japanese Yoshinori Ohsumi became famous for a diet that helps with weight loss and cell regeneration.

Ohsumi is a 2016 Nobel Laureate in Physiology and Medicine and is a Japanese researcher specializing in cell biology. He discovered a principle of eating based on the food window (the period in which we eat). When the diet window is narrower, the risk of developing diabetes, anemia or obesity is lower.

Reducing the diet program slows down the aging process and weight loss, provides protection against skin cancer reduces the risk of breast cancer and high blood pressure.

When we increase the time, we feel hungry, the cells recycle everything that is old and useless and rejuvenate. This process is called autophagy. As for the food of the Japanese, they prefer simple food with many vegetables, prepared with rice and fish, including breakfast smoked fish and fish soup. This breakfast is eaten from small to large. Like the Japanese, the Russians prefer smoked fish. Dehydrated flax, sesame and seaweed seeds are sprinkled on rice, being considered an anti-aging remedy. Our nutritionists recommend flax and sesame seeds soaked in water before consumption. The Japanese eat them dehydrated. During meals consume green tea (powder) and oat tea.

We are not recommended to drink fluids during the meal. The Russians drink a lot of black tea from Azerbaijan. This tea is in the top of their preferences. The following are Chinese black tea or green tea with jasmine.

Throughout history, due to various influences, from Western Europe to East Asia, Russia has shaped one of the richest cuisines in the world. At first, however, the meal was quite simple. It was based on vegetables and grains, then on mushrooms, dairy products and fish. Meat was generally less consumed due to the large number of fasting days.

Russian cuisine has always enjoyed what nature has to offer, namely: caviar, fish, chicken, mushrooms and honey. The sturgeon has always been on the Russian table. From this species of fish comes the famous caviar.

The recipe for the famous Russian bread appeared in the late nineteenth century and became so well known that not even white flour can replace that of barley. According to some studies, this bread has a lot of nutrients.

Healthy food is of great importance to the Romanian people and cannot be replaced by any medical treatment. The most effective is the weighted diet for the elderly with diabetes 2.

In order to correctly determine the amount of carbohydrates required, the so-called “carbohydrate tolerance” is performed by administering for three days a diet with a fixed amount of carbohydrates decreasing the amount of carbohydrates in the diet in patients taking insulin, 2 g of carbohydrates are also deducted for each unit of insulin administered.

The regime is based on the needs of the normal person. The caloric needs of the body are dependent on age, sex, activity, environmental conditions, physiological conditions, etc. These needs relate to the ideal kilogram-body weight.

D.D. Chiriac a Romanian specialist recommends the following diabetes treatment scheme:

- Diabetic tea - 2-3 cups a day
- Aloe Vera is consumed in 40-day cures, then there is a 40-day break
- Minerals are consumed in 40-day courses, then there is a break of 40 days (in the recommended doses)
- Permanent cure antioxidants (in recommended doses)
- B vitamin complex - it is administered for 60 days with a 20-day break (in the recommended doses)

Note: during the 40-day break after the administration of Aloe Vera, minerals will be administered for 40 days (Chiriac 2006.).

The Japanese do not prefer sweets. Rice sweets (biscuits and cookies) have an unpleasant taste for Europeans. Meiji chocolate, the favorite of Europeans, is not to the liking of the Japanese. In terms of salt consumption, the Japanese prefer soy sauces with different degrees of salinity. Patients with diabetic neuropathy and hypertension in Japan are heavy consumers of soy sauce despite the recommendations.

Nattokinase, which is fermented soy, is consumed almost daily. According to research, it gives very good results in diabetic neuropathy, reducing pain. The consumption of fermented soy is not to the liking of Romanians and Russians. Nattokinase can also be consumed in the form of capsules, the treatment being long.

In Russia, the treatment of diabetes in the sanatorium is at a high professional level. The best specialists work in sanatoriums in Russia, which offer various methods of effective treatment for diabetes. Sanatoriums for the treatment of type 2 diabetes aim to reduce the patient's weight and stop many complications. Diabetologists works in the sanatorium, choosing individual treatment programs. Initially, for diabetics, a balanced diet and the exclusion of sugar from the diet are created.

To cure diabetes, doctors seek to prescribe mineral water to the patient, certain medications and oxygen therapy. Magnetotherapy and cryotherapy (ro.diabetes-education.net n.d.) are provided for patients with diabetes. A Russian proverb says that a house is made of pies, not walls, to emphasize the importance of this dessert, and according to a custom, guests should be

greeted with bread and salt, as it is believed that bread has always symbolized prosperity and the health of the country (the Russian word *khlebosol'stvo* - which means hospitality - consists of the terms *khleb* - meaning bread - and *soil* - salt).

If the Italian cuisine is famous for its many pasta and pizza recipes, the Russian one is specific to beetroot salad, caviar, pies and of course, vodka. Very few people know, however, about this liqueur that, in fact, it was brought from Italy in the 15th century.

Romanians have a relatively healthy diet. Older people like the Japanese and Russians prefer meals at fixed hours. Both in Romania, Russia and Japan the number of people with type 2 diabetes is increasing after 70 years. In all these countries there is a program diabetes in Japan, but through its efficient programs and the care of the state it far exceeds the national programs in Romania and Russia. In all these countries we find an aging population, a low birth rate and all these states, especially Japan is clearly concerned about the growth elderly population and declining birth rates.

According to medical statistics, among these countries Romania has the highest number of diabetics, followed by Japan. Russia has the lowest number of diabetics compared to Romania and Russia. This paper can be used as a documentation study for students in the specialization of nutrition and dietetics or masters in Nutrition. It can also be used as teaching material for post-secondary Colleges of Health.

In conclusion, it can be said that the objectives of this paper have been met, the topic being topical because in Romania the prevention, diagnosis and treatment of diabetic neuropathy is deficient, not having a model of treatment and nutrition, as is Japan. An example of healthy nutrition we can have from Russians and Japanese who have very few processed foods, some of them have no additives or E Numbers. Unfortunately, we did not find data published in the literature in Romania and Russia on the existence of studies on nutritional research of patients with diabetic neuropathy.

References

- Anestiadi, Vasile. 2018. "Sănătate Publică, Economie și Management [Public Health, Economics and Management]." In *Medicină* No 60/3228, 2-2(75-76) 7.
- Chiriac, D.D. 2006. *Alimentația bolnavilor de diabet [Nutrition for diabetics]*. Bucharest: National Publishing House.
- Mateescu, Roxana. n.d. "Diabetul zaharat în rândul vârstnicilor: complicații și tratament" [Diabetes in the elderly: complications and treatment]. *Revistagalenus.ro*. <https://www.revistagalenus.ro/practica-medicala/diabetul-zaharat-in-randul-varstnicilor-complicatii-si-tratament/>
- Percek, Arcadie. 1987. *Terapeutică naturistă [Naturist therapy]*. Bucharest: Ceres Publishing House.
- Ro.diabetes-education.net. n.d. "The best sanatoriums and diabetes centers in Russia." <https://ro.diabetes-education.net/cele-mai-bune-sanatorii-si-centre-de-diabetici-din-rusia>
- Sputnik. 2020. "How to stop aging and diabetes: The discovery of scientists." <https://sputnik.md/health/20200209/29132184/imbatranirea-si-diabetul-pot-fi-oprite.html>.
- Vereșiu, A.I., Bondor, C.I., Florea, B., Vinik, E.J., Vinik, A.I. & Gâvan, N.A. 2015. "Detection on undisclosed neuropathz and assessment of its impact on qualitz of life a survez in 25,000 Romanian pacients with diabetes." In *Jurnal of Diabetes and Its Complications*.

The Repressive Actions of the Communist System against the Romanian Neoprotestant Catechization System

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ABSTRACT: At a time when truth had become relative and politics had become only a game of dictatorial power, the church, left without any support, had to endure multiple constraints, leading an atypical, tacit and crisis "normality" to resist. In a society where comrade Elena Ceaușescu claimed to be the "mother of the people", the neo-Protestant cults had to endure repressive measures just because they had educated their children and young people in a Christian spirit.

KEYWORDS: church, neo-Protestant, religious education, communism, repressive actions

Introduction

After the first years of religious freedom, the communist regime has intensified the actions taken against religious manifestations, clergy, religious services, church practices and doctrines. In this article, we intend to present specifically the measures taken by the communist regime against the neo-Protestant catechization system. The reader will find not only facts and events, but also elements of context, to help him understand the situation of the time as well as possible. The study can also be captivating, in that the information provided comes, in particular, from the unpublished documents in the files of the Archives of the State Secretariat for Cults (A. S. S. C.), as well as from the Archives of the National Council for the Study of the Securitate Archives (A. C. N. S. A. S.).

The political-religious situation

The changes imposed in Romania after August 23rd, 1944 also meant that the neo-Protestant churches were now legal, with the Soviet model being the basis of the anti-religious measures. The weak political representation meant that, the Communists in Romania had to obey Moscow's instructions rigorously. In order to impose this religious model, a special department was set up in Bucharest to solve religious problems. The famous "Vișinski Plan" contained several religion-related provisions in addition to numerous political, military, and economic provisions (Tobias 1956, 321). In addition to the general legal framework, which affected all churches in Romania, special measures were also adopted, which directly targeted only the neo-Protestant churches and were often identified with the name of "sect" (Modoran 2013, 39).

Aware that such a complex plan requires time and human resources, the communist state adopted a policy of duplicative and religious prudence, especially during the period of Communism (1944 – 1948), oscillating between full liberalization and coercion, which will go as far as the effective abolition of religious cults (Modoran 2013, 42). The year 1948 proposed intensive legal and administrative work, with the aim of strengthening the communist regime. Besides the creation of the Securitate (the party's instrument of repression), the penal code was amended, a new Constitution was adopted, the banking system and industrial enterprises nationalized, education restructured and a new religion law was adopted (Modoran 2013, 65). Very quickly Communism proved to be a "religion" of hatred and class, fanatical and intolerant struggle, which in Romania, after August 23rd, 1944, fought to establish atheism and dictatorship of proletariat, using terror, bloody persecution, feared and extermination camps. Between 1958 and 1959, there was a last wave of terror

aimed at showing "who is the boss" in the country. After 1960, a gradual relaxation understood only from the perspective of Romania's foreign relations (especially the distance from Moscow) was felt. The peak of domestic relaxation was reached in 1964, when several political prisoners were released. However, after two decades of intense activity, almost all political opposition had been eliminated, the economic policy of the regime had been imposed and uncertainty, mistrust in people and fear of the repressive system, had already been planted in the hearts of citizens (Modoran 2013, 65 – 66)

The paradox of the neo-protestant cults flourishing

Although many measures have been taken to limit the development of neo-Protestant churches, the statistics, however, indicated the opposite. Even if it tried to identify the causes of these steady increases (Modoran 2013, 84-89), it seems that the communist regime has never understood the phenomenon in his essence.

A first cause identified by the authorities concerned **the state of poverty and ignorance of the population**, mentioning that a large part of the believers converted to neo-Protestant cults were illiterate peasants. However, authorities forgot that there was still a considerable number of neo-Protestant believers in the big cities, where cultural and economic level were much higher.

A constant dissatisfaction of the Department of Cults was also linked to **the inefficiency of cultural-educational activities and the lack of participation of neo-Protestant believers in them**. Such activities should have provided the necessary education to convince people not to be influenced by "sectarians".

Receiving aid from abroad was seen as another cause of the development of neo-Protestant churches, especially for the Baptist and Adventist ones, who, at least during the first period of the communist regime, had been in contact with the superior bodies in the United States and Europe (A.S.S.C., no. 95/1952, volume 3, inv. 98, 43).

Another cause was **the lack of interest and morality of the clergy of the majority church**, the pastors of the neo-Protestant cults using this method for missionary purposes. "Their success is also due to priests who ask for too high fees for religious services, or are passionate and indifferent to the church's believers, not interested in their troubles and pains, and also take taxes from the poorest to perform religious services. The sectarians do what the priests must do and they are successful. The priest, in this case, is gossiped about and the church criticized for doing nothing for the people, and then they offer to do it, the sectarians." (A.S.S.C., no. 103/1958, vol. 1, inv. 122, 153).

Accused by the communist regime of the powerful development of neo-Protestant churches, the Orthodox clergy saw in **the lax provisions of the statutes of organization and functioning** of the neo-Protestant religious denominations the major cause of their development. The priests were unhappy that the neo-Protestants had the right to a pastor for a small number of believers, and churches could be organized and authorized for even 20 baptized persons. "But their success is not due so much to the fault of the priests, as it is often said, nor to the inactivity of the church, as it is also said, but to the too great liberty they have and take, without being controlled for what they do and how they do. Our priests are more supervised and controlled by the inspectors of the Department of Cults than they are. They open houses of worship, hold assemblies at other times and in other places than those imposed by the status of the cult, have baptisms, make processions not permitted by the law, but if they are not controlled, they do all at their will. Our priests do the services in the church, catechize, and keep the vespers only during the designated time, and days. Our parishes are well defined and our work is carried out in the same way, within a well-defined framework. They do anything at anytime, without any obstacles or control from anyone." (A.S.S.C., no. 103/1958, vol. 1, inv 122, 40 – 57).

But beyond any reason, the fundamental factor of their development was **the depth of the religious experiences and the sense of the mission**. The neo-Protestant believers took an active part in the religious life of the church (100% frequency), their missionary methods being frequently reported by the Orthodox clergy. "The sectarians are active and are not limited to an activity in their assembly houses. You find them always and everywhere around. They wander through the villages, disturbing and deluding Orthodox believers. They are often successful. They bring comfort to the houses of the Orthodox people. With boldness and insolence, they visit all houses, and even if they are not encouraged and received, they try again. They offer to say prayers for the sick, they exploit the troubles, the momentary pains and manage to attract them to themselves. There are known cases when they gave money to poor families." (A.S.S.C., no.103/1958, vol. 1, inv. 122, 180).

The Pentecostal Church was rapidly growing, with the authorities paying special attention to this phenomenon, with religious manifestations considered "a real danger to public health, because the religious exercises used, led to nervous excitement, convulsions, meaningless articulation of sounds and syllables, causing imbalances and alienations of believers" (A.S.S.C., no. 103/1951, vol. 3, inv. 97, 18). However, **ecstatic emotions and experiences and miraculous healings** have aroused the curiosity and interest of many believers. A major cause for this increase was also **the very high birth rate**, compared to other cults, with many families often having up to ten children. A statistic on the Pentecostal pastors in Romania shows that 121 pastors had 572 children, two thirds of them having over four children (A.S.S.C., Lungeanu 1974, 43 – 44).

Actions taken against the catechization system

Considering the four neo-Protestant cults as a brake on the action of the culturalization of masses (A.S.S.C., no. 103/1957, vol. 1, inv. 122, 1), the moral-religious education they offer to children and young people as harmful (A.S.S.C., no. 224/3 July 1989, 5) and considering the creation of confessional interest groups as "undermining the unity of the Romanian people" (A.S.S.C., no. 273/26 June 1989, 7), it is no wonder that the Department of Cults has taken repressive measures to remove children and young neo-Protestants from the influence of the church (A.S.S.C., no. 55/22 July 1989, 1) by abolishing the methods of catechization (A.S.S.C., no. 109/1962, vol. 1, inv. 85, 68).

General Measures

To counter neo-Protestant influence, measures were taken by intensifying mass educational work, by equipping community centers with radio, television, and projection equipment, as well as scientific films that publicize science. Scientific brigades, artistic agitation brigades and cultural artistic brigades have been established. In the localities where there were several neo-Protestant and more influential churches, there were conferences of a scientific and atheist nature, supported by highly trained staff, as well as evenings of experiences and symposiums, occasions in which the problems of young people related to natural phenomena, scientific and physical experiences were addressed. Articles have also been published to combat the mystique and obscurantism of people's conscience. It has been allocated funding for the procurement of musical instruments as equipment for the community centers, with choirs and orchestras to which were attracted children and young people in schools and community centers. Intercommunal and inter-county artistic contests were organized in the localities where the neo-Protestant churches had a larger number of believers. Such a contest, organized in honor of the centenary of the Romanian Communist Party, took place in Peretu commune, where there were two Adventist churches with more than 550 members, to this event participated the Adventists too, as spectators (A.S.S.C., no. 78/19 February 1974, 7).

Actions against "the Sabbath school"

Appreciating that the most rigorous and systematic form of catechization was achieved within the Adventist cult, "in the most complete form and strong discipline, manifesting itself from the top to the last believer", the authorities first acted to dismantle the Sabbath school. (A.S.S.C., no. 93/1960, vol. 13/2, inv. 99, 234). On November 14th, 1953, the trustee from the capital city visited the Adventist Church in Labirint Street, no. 116, taking note of the activity by age groups of the children's Sabbath School. Noting that it was carried out in such an attractive form, in his report to the Ministry of Cults, he proposed to remove this system, as "children raised in this spirit can hardly wake to reality" (A.S.S.C., no. 23/1953, vol. 8, inv. 120, 1 – 3).

As expected, since it had happened on other occasions, the Department of Cults acted through the leadership of the cult, the inspectors for religious denominations recognizing that the abolition of the Sabbath school could only be achieved with the support of the Union of Conferences. (A.S.S.C., no. 93/1959, vol. 8, inv. 99, 1). The Union's leadership intervened energetically to fulfill the Department's request. Constantin Alexe, President of Muntenia Conference, stated at the 1959 pastors meeting that "the decision taken by the religious management to permanently abolish the Sabbath school for children must be carried out without exception" (A.S.S.C., no. 93/1960, vol. 8, inv. 95, 22). In the report of the religious authority trustee in Prahova County, it was recognized that only through the interventions of the Union and the Conferences it was obtained the abolition of the separate catechization of children (A.S.S.C., no.1/1972, 86 – 97; A.S.S.C., no. 3/1960, 7).

The reasons given by the cult inspectors for the abolition of both the Sabbath and Sunday school were, if not childish, meaningless anyway. Especially as, for example, the Adventist Church, as is clearly specified in the status of organization and functioning, that it can do the catechization of all believers according to its norms and tradition, regardless of their age. In an attempt to prove the illegal operation of this system of catechization, the inspectors for cults tried to inoculate the idea that young people and children, not being members of the cult (A.S.S.C., no. 93/1960, vol. 8, inv. 95, 22; A.S.S.C., no. 3413/21 February 1961, 3), should not even attend divine services, especially Sabbath and Sunday schools (A.S.S.C., no. 93/1959, vol. 8, inv. 99, 3). It is also considered that the organization of Sabbath and Sunday schools was in contradiction with the provisions of Article 84 of the Constitution, which established that the school was separated from the church, and that no other cult could have schools other than for the training of serving staff (A.S.S.C., no. 103/1960, vol. 13, inv. 144, 48; A.S.S.C., no. 103/1960, 7).

It was forbidden to teach biblical lessons around the sand "table", by means of which instructors gave their biblical lessons to children in a practical way. At the same time, the Adventist cult was no longer allowed to organize quarterly celebrations with children (the thirteenth Sabbath) (A.S.S.C., no. 93/1959, vol. 8, inv. 99, 1). This process of dismantling the "school" system lasted until 1958, when the last few strongholds were conquered. A note from the Department of Cults in 1959 mentioned with satisfaction: "The problem of the abolition of the children's Sabbath school has been solved" (Modoran 2013, 178). As a result of the measures taken, for about 20 to 25 years, the formal systematic activity of catechization of children and young people has ceased in almost all neo-Protestant churches (A.S.S.C., no. 23/1953, vol. 10, inv. 122, 4).

Unofficially, however, the catechization of children and young people has never stopped completely. Alongside family education, a clandestine form of catechization continued in communities throughout the period of ban, which lasted until the 1980s. A Cults Department employee reported on a new method used by Adventists for teaching children: at the adult Sabbath school, the children were invited to the front seats or to stay next to their parents, the Sabbath school leader asked a series of special questions, focusing more on the children (A.S.S.C., no. 93/1960, vol. 8, inv. 95, 90).

In an inspection of the Department of Cults' representatives in the Adventist Church Grant, in Bucharest, to see if the prohibition to have catechization hours was observed, they discovered at the balcony of the church a group of 15 children who participated in the catechization under the leadership of an instructor. Only after the intervention of the Union of Conferences' leadership along the Department of Cults and the commitments taken, was the authorization to operate the church given back, only the permit for pastor Enache Marin being still revoked (A.S.S.C., no. 93/1960, vol. 8, inv. 95, 1 – 2). Also, in 1965, in Popa Tatu Adventist Church in Bucharest, local pastor Zăbavă Ion allowed the Sabbath school for children to be organized in the basement (cloakroom). Children from other communities in Bucharest came to this group, together with their parents, because "the pastors of those communities had no courage to organize activities with children" (A.S.S.C., no. 93/1959, vol. 8, inv. 99, 90). Dumitrescu Magdalena, the wife of the Union's chief accountant, who took up the religious training of children at the Sabbath school, had no approval for it and with significant obstacles, had also an important role in the continuation of the clandestine catechization (Cojea 1998, 330).

Actions against the religious programs for children and youngsters

At about the same time, even under the same directives banning catechization through Sabbath and Sunday schools, the Adventist Church disbanded the "Musical and Pastoral activity" Department at the Union and Conferences, which dealt with the ministry for young people. Then, the youth hour, in which programs for young people were carried out in the second and fourth Sabbath, was named "musical hour" (Cojea 1998, 337), fact which revealed that the Department of Cults did not simply just banned the separate catechization of children through the school system. All religious activities and events for children and young people were prohibited: Biblical competitions, poetry recitation, religious songs, celebrations and even the use of organs in churches (A.S.S.C., no. 93/1960, vol. 13/2, inv. 99, 162). In this respect, the Argeş County trustee accused pastor Burtescu Gheorghe of having turned the place of worship into a hall of cultural-religious manifestations, along with the development of the musical hours (A.S.S.C., no. 109/1963 vol. 2, inv. 99, 450). The address of the Adventist Union No. 1159 of 17th December 1957, requesting an approval from the Ministry of Cults for the organization of musical services in the Adventist churches during that year's winter holidays is another proof of the banning of musical programs (A.S.S.C., no. 93/1957, vol. 13/1, vol. 99, 52).

Things have not been better at the other neo-Protestant religious denominations either. An "Address" of the Baptist Union to the Department of Cults reported the dismemberment of artistic events in churches. The address of the Union stated: "In view of avoiding errors in content made during the rehearsing of poems, screenings or biblical plays, the execution of vocal and instrumental songs in solo, duet, trio and quartet, we believe that such events should be abandoned in the future, in most cases, it does not contribute to the spiritual building of believers" (A.S.S.C., no. 109/1963, vol. 3, inv. 100, 306; A.S.S.C., no. 622560/25 October 1974).

Actions against music orchestras

Religious manifestation through music was one of the most effective missionary methods of neo-Protestant churches. Whether it was soloists, choirs, brass bands or orchestras, music was a determining factor. The method was intended, besides keeping the children and young people from neo-Protestant families in church, also to attract people from other denominations (especially from the Orthodox cult). Almost every church had a choral formation, even orchestras, instrument groups and brass bands in the larger churches. All religious services were accompanied by music, hundreds of volunteer instructors (teachers, students, intellectuals – with

various training, self-taught) organizing courses made up for children and young people (A.C.N.S.A.S., no. 150, vol. 2, 38 – 39).

Thus, being considered to have a particularly important role in the religious experience of believers, artistic manifestations have become the target of religious representatives, who asked the Department for their abolition. During the meeting of the representatives of Timișoara region, they insistently asked for the prohibition of artistic programs (soloist moments, poems, choir, orchestra, brass bands) (A.S.S.C., no. 93/1963, vol. 7/1, inv. 72, 36).

In the beginning, the leaders of the four religious denominations were summoned to the Department of Supervision and Control, and with them were discussed the most appropriate measures to be taken in order to give up this type of activity (A.S.S.C., no. - /1971).

As a first step, they were asked to ban the trips of choirs and brass bands outside the community (A.S.S.C., no. 103/1958, vol. 8/1, inv. 122, 59). The leadership of the Baptist and Pentecostal cult issued "Memos" forbidding any trips taken by believers outside the church, and the choirs, brass bands and orchestras were to be used only in church (Pentecostal cult Memo no. 1044/1957; Memo of Baptist cult no. 38/1958). In cases of funerals, they could also be used outside the churches, but only in those localities and only with approval (A.S.S.C., no. 103/1958, volume 1, inv. 122, 59).

It was also wanted to have control over the days when the choir rehearsed. Thus, the Adventist Union Committee considered and regulated this issue, deciding that choir rehearsals should take place in all churches in Romania on Wednesday afternoons, at a time to be determined by each church, depending on the season (Decision no. 10, See Minute no. 40/21 December 1978). These works were to begin with a spiritual meditation, prayer, and a good spirit was maintained all the time. For this Decision, the Committee of the Union had the approval of the Department of Cults no. 21397, 1978, which stated that: "The choir rehearsals should be held on Wednesday afternoons, for two hours" (A.S.S.C., no. 538/A/17 October 1979, 1).

At the same time, the Department of Cults asked the territorial representatives to submit lists of artistic band members from all over the country, in order to detect the pupils and students involved in such activities (A.S.S.C., no. 103/1960, vol. 13, inv. 144). The conductors were also to present a self-biography together with these lists. The lists had to include all personal data, including studies, profession, and place of work, so that they could be punished also in the establishments where they were working (A.S.S.C., no. 94/1961, vol. 7, inv. 80). The archives of the Adventist Union keep innumerable tables of 60 choir members from the churches from the 1960s, as well as the autobiographies of the conductors.

Not long after this, the choirs were dismantled because of the bans imposed on official conductors (A.S.S.C., no. 103/1960, vol. 5, inv. 142, 3 – 13; A.S.S.C., no. 103/1960, vol. 13, inv. 144, 2; A.C.N.S.A.S., no. 141, vol. 2, 1). The choirs survived only because of amateur volunteers and young people from these musical bands, who resumed activity and assumed the risks (A.S.S.C., no. 52/29 January 1973, 2).

There have been deviations, of course, from these rules, which resulted in the disciplinary removal of some pastors, as well as the resignation of some members of the church management committees. Dumitrașcu Dumitru, a pastor at the Adventist Church in Iași, was transferred, because he tried to organize the choir, especially with Adventist students. Then, because the choir conductor, N. Antonesei continued to receive students in some of the choir's rehearsals, the new pastor, Diaconescu Eduard, was notified to take measures against this member of the community. He did not receive students anymore and, as a result, five members of the management committee, led by the choir conductor, resigned. Also, Baptist pastor Marco Nechifor, managed to persuade the children of the church believers he was serving, to buy balalaikas to form an orchestra. In addition, he has carried out an intense work to attract several students to the church choir. For this reason, he was

moved to another church. The new pastor, Radu Cruceru, managed to remove the students from the choir, thus demolishing what his colleague had built (A.S.S.C., no. 132/3 March 1973, 1; A.S.S.C., no. 122/15 March 1974, 1).

It was reached a point where, in order to use the brass bands on special occasions (weddings, baptisms and funerals), it required the approval of local authorities, confiscating musical instruments because they were used outside churches for missionary purposes, without approval. The Baptists of Oradea were confiscated three brass bands because they had used them outside the church (A.S.S.C., no. 103/1959, vol. 1, inv. 122). The return of the seized musical instruments was asked in an address of the Baptist Union no. 175 of 22nd March 1973 to the Department of Cults. The address mentioned that, in 1960 the brass band (20 instruments) of the Baptist Church in Rădești, Almaș commune, Arad County was seized on the pretext that on December 7th, 1959 it was used to the funeral of a Baptist believer without the necessary approval. The same happened with the brass band of the Almaș parish. With the seized instruments, a communal brass band was formed within the community center. The refusal of the Department was motivated by the fact that the restitution would lead to the dismantling of the community brass band and would intensify the religious life of the Baptists. In addition, if the instruments of the church in Rădești were returned, the Orthodox Church and the Baptist Church of Tăuț would ask for their instruments to be returned too (the instruments of Tăuț church had been given to several community centers) (A.S.S.C., no. 103/1958, vol. 1, inv. 122).

Second, at the same time as the first measure, the territorial inspectors had to take actions at the county level on the restrictions of training hours, the reduction of music hours and in time, the dismantling of the bands (A.S.S.C., no. - /1971). The organization of orchestras with children and young people had also been completely prohibited (A.S.S.C., no. 441/16 March 1967, 6). Those who had instruments would learn in particular, at home or at school, with the music teacher, not in a church-organized setting (A.S.S.C., no. 147/29 March 1980, 2).

Third, the financial control bodies had to take a closer look at the funds from which the musical instruments were acquired, as well as at the way in which the persons who were in charge of training the bands were paid (A.S.S.C., no. - /1971). It was decided not to approve the budgets of the churches that would have had provisions for the acquisition of musical instruments (A.S.S.C., no. 170/30 June 1989, 9). However, the Baptist Church in Bucharest, N. Titulescu street, bought a harmonium from the Czechoslovak exhibition, without consent from the Department of Cults, though they had asked for the approval. In addition to the order of the organs from the "Ligna" company, 100 harmoniums and some other organs were ordered for the future, also from Czechoslovakia. However, the company's representative gave the instruments only in custody, the Baptist Church offering as security the amount of 10.000 lei. Immediately after that, C. Bălgrădeanu, secretary general of the Baptist Union and Jan Staneschi, the main pastor of this church, were summoned to the Department. As a punishment, Staneschi was proposed for dismissal from the position as main pastor of the Baptist Church in Titulescu street, leaving him only as director and professor at the seminary. Bolea Ion, the secretary of the church and Ioachim Tunea, the other pastor, were also proposed to be left without their positions within the cult. "As far as the organ is concerned, we believe that there is no question of its restitution, because it is not political. We are faced with an accomplished fact and we must accept it" (A.S.S.C., no. - /22 June 1957, 1 – 3).

Fourth, the state authorities and youth organizations had to be notified about this situation, in order to take political and organizational measures, which would lead to the training of young people in cultural, sports and artistic activities (A.S.S.C., no. - /1971). It was desired to prepare some accepted programs, that is, programs with patriotic content and not fun or dance. It was also intended to organize musical bands, including all children with musical talent, to organize weekly rehearsals and performances, especially during the days

and hours when they used to have religious services, but not in a provocative manner (A.S.S.C., no. 653/4 September 1973, 1 – 2).

Fifth, it was prohibited to record religious services and songs on a tape recorder, as this was known to be safe sources for missionary activities (A.S.S.C., no. 109/1963, vol. 3, inv. 100, 452; A.S.S.C., no. 109/1963, vol. 2, inv. 99, 125; A.S.S.C., no. 1/1974).

These interdictions for musical groups must also be understood against the background of disagreements between believers, especially in the Adventist cult, something immediately speculated by cult inspectors, who have argued to some believers that they had received complaints from other believers that their silence in church was disturbed by the introduction of instruments (A.S.S.C., no. - /March 1, 1974, 3).

In order to stop the artistic groups, the territorial arrangement and the different groups belonging to different cults, coming from different counties had to be taken into account. The dismantling of artistic groups was to start with the counties with a higher share of them, starting with the Baptist and Adventist Cults (A.S.S.C., no. - /1971). Although intensive efforts were made, the measure of dismantling the choirs and other artistic bands could not be generalized or permanent (Modoran 2013, 171).

Actions against "the friends' hour"

Known as the indoctrination time or the "friends' hour", this activity referred to a form of catechization of the candidates for baptism (Modoran 2018, 41). Almost ten years after the abolition of the Sabbath school instructors and the deployment of age-based catechizations, measures have also been imposed to dismantle the catechization of young people and adults (sympathizers) within the "friends' hour". In the statement of reasons for the abolition, the Department of Cults established that this training class for baptism was "harmful, promoted desolated proselytizing, contrary to the regulations of the divine services of worship and, from a statutory point of view, illegal" (A.S.S.C., no. 4320/13 June 1972).

As expected, this catechization activity was also disbanded by the religious leadership. At the Adventist Church, first of all discussions were held at the Department of Cults between the director Rodeanu Ion and the leaders of the cult, Ioan Tachici (president) and Dumitru Popa (secretary), who were assigned the task of coming up with a final decision to dismantle the "friends' hour" (A.S.S.C., no. 4320/13 June 1972). The request of the Department of Cults was discussed during the meeting of the Committee of the Adventist Union on December 9th, 1971 in the presence of the representatives of the Department (Niță Pascu and Nicolae Alexandru Saica). The discussions were extremely tense, Ioan Tachici affirming that the committee must take the decision to abolish the "friends' hour", a position which he even argued with biblical references. Despite Dumitru Popa's opposition, the committee decided to abolish the indoctrination time (Archives of the Adventist Union, no. 8/IV/1972 – 1973, notification to the Department of Cults, 16 February 1972). The communication of the "own" decision to abolish the "friends' hour" was communicated to the pastors at the course of the orientation conference in June 1972. The decision caused dissatisfaction, protests and even the threat of some pastors that they would give up being the religious cult's employees (A.S.S.C., June 4320/13, 1972).

Shortly after, an address from the Department of Cults sent to Prahova County inspector, Dănescu Mihai, announced the abolition of the "friends' hour". Address no. 15058/28 June 1972 stated: "We inform you that recently the management of the Adventist cult decided to abolish the friends' hour in all communities. It shall be for you to monitor that it is not replaced by other activities" (A.S.S.C., no. 1/1972, 95).

After 1972, the date when the indoctrination hours were abolished, the religious indoctrination of children and young people continued in various forms. Although the separate indoctrination of children and young people was no longer practiced, it was practiced

in the family and in churches during the divine services (A.S.S.C., no. 78/19 February 1974, 1).

Actions against "missionary trips"

Excursions, often referred to as "missionaries", have been a powerful means of attracting and retaining young people in neo-Protestant churches. In order to be able to prevent such recreational activities on the basis of confessional practice, it was acted both on the line of religious management (as expected) and on the lines of travel agencies, which could provide the young people with means of transportation. Thus, the Tourism County offices (OJT), as well as the Youth Tourism offices (BTT), no longer offered means of transportation to those who wanted to organize trips on the basis of confessional arrangements. However, neo-Protestant religious groups have also adapted to this situation, encouraging trips in smaller groups with public transportation (A.S.S.C., no. 273/26 June 1989, 6).

There have also been situations in which various children's camps were effectively canceled while active. The Baptist Church in Lugoj had organized a camp for Christian children in the house of a believer in Ohaba Romana, Timiș County during the holiday. Children were supervised and taught the Bible, having a varied and pleasant daily schedule. Ioan Trif, president of the Baptist Church in Timișoara, and the cult inspector Teperdel, came to the camp in Ohaba Romana and canceled the event, forcing the children to return home. A boy was taken the Bible, and in Lugoj a search was performed at the house of a student (Grossu 2006, 173). Although most of the organized trips remained only at plan level, others have materialized thanks to the narrower framework in which they were organized, as well as the trips of young people with the public means of transportation.

Conclusions

Despite the restrictive actions taken by the communist regime to limit any religious manifestations, authorities understood that they could not abolish religion by coercive administrative measures. The restrictive measures have been constantly intensified, in a variety of forms: the abolition of the catechization of children and young people through the Sabbath and Sunday school, the abolition of religious programs for children and young people, the abolition of musical bands (choirs, orchestras, fanfare), the abolition of the friends' hour (preparation for baptism hour) and the ban on tourism trips. Despite these repressive actions, children and young neo-Protestants have shown a moral cleanliness to be envied, enjoying exceptional moral-religious education, taken with enormous sacrifices, under illegitimate conditions.

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References

- Cojea, V. D. 1998. *Vechi cărări advente (Old Adventist Paths)*. Bucharest: CARD.
- Grossu, Sergiu. 2006. *Calvarul României Creștine (The Calvary of Christian Romania)*. Second Edition. Bucharest: Vremea.
- Modoran, Gheorghe, 2018. *Biserica prin pustiul roșu. Biserica Adventistă din România sub comunism (1965 – 1975) (The Church Through the Red Desert. The Adventist Church in Communist Romania (1965 – 1975))*. Vol. 2. Bucharest: Alege Viața Publishing.

- Modoran, Gheorghe. 2013. *Biserica prin pustiul roșu. Rezistență și compromis în adventismul din România în perioada comunistă (1944 – 1965) (The Church Through the Red Desert. Resilience and Compromise in the Communist Romania Adventism)*. Vol. 1. Pantelimon: Editura Viață și Sănătate.
- Tobias, Robert. 1956. *Communist – Christian Encounter in East Europe*. Indianapolis: School of Religion Press.

Archive Documents

Arhiva Bisericii Adventiste de Ziua a Șaptea (Seventh Day Adventist Church Archive):

Adresa Uniunii Adventiste către Departamentul Cultelor (Address of the Adventist Union to the Department of Cults), no. 1159/17 December 1959.

Înștiințarea către Departamentul Cultelor (Memo to the Department of Cults), 16 February 1972, file no. 8/IV/1972 – 1973.

Hotărârea (Decision) no. 10, din Procesul Verbal (Minutes) no. 40/21 December 1978.

Arhiva Bisericii Baptiste (Baptist Church Archive):

Adresa Uniunii Baptiste către Departamentul Cultelor (Address of the Baptist Union to the Department of Cults), no. 175/22 March 1973.

Circulara (Memo), no. 38/1958.

Arhiva Bisericii Penticostale (Pentecostal Church Archive):

Circulara (Memo), no. 1044/1957.

Arhiva Secretariatului de Stat pentru Culte (A. S. S. C.) (The Archive of the State Secretariate for Cults):

Arhiva Consiliului Național pentru Studierea Arhivelor Securității (A. C. N. S. A. S.) (The Archive of the National Council for the Study of Securitate Archives)

A. C. N. S. A. S., fond Documentar (Documentary fond), file no. 141, vol. 2.

A. C. N. S. A. S., fond Documentar (Documentary fond), file no. 150, vol. 2.

A. S. S. C., document no. 4320, 13 June 1972.

A. S. S. C., file no. 1/1974.

A. S. S. C., file no. 103/1951, vol. 3, inv. 97, f. 18.

A. S. S. C., file no. 103/1958, vol. 1, inv. 122.

A. S. S. C., file no. 109/1963 vol. 2, inv. 99.

A. S. S. C., file no. 93/1957, vol. 13/1, inv. 99.

A. S. S. C., file no. 93/1959, vol. 8, inv. 99.

A. S. S. C., file no. 93/1960, vol. 13/2, inv. 99.

A. S. S. C., file no. 93/1960, vol. 8, inv. 95.

A. S. S. C., file no. 93/1963, vol. 7/1, inv. 72.

A. S. S. C., file no. 95/1952, vol. 3, inv. 98.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 622560/25 October 1974.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. - /1 March 1974.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. - /1971.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. - /22 June 1957.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 122/15 March 1974.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 132/3 March 1973.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 147/29 March 1980.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 170/30 June 1989.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 224/3 July 1989.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 273/26 June 1989.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 3413/21 February 1961.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 4320/13 June 1972.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 441/16 March 1967.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 52/29 January 1973.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 538/A/17 October 1979.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 55/22 July 1989.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 653/4 September 1973.

A. S. S. C., fond Direcția de studii (Research Directorate fond), document no. 78/19 February 1974.

A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 1/1972.

A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 103/1957, vol. 1, inv. 122.

A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 103/1958, vol. 1, inv. 122.

A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 103/1959, vol. 1, inv. 122.

A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 103/1960, vol. 13, inv. 144.

A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 103/1960, vol. 5, inv. 142.

A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 103/1960.

A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 109/1962, vol. 1, inv. 85.

A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 109/1963, vol. 2, inv. 99.

- A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 109/1963, vol. 3, inv. 100.
A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 109/1963, vol. 3, inv. 100.
A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 23/1953, vol. 10, inv. 122.
A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 23/1953, vol. 8, inv. 120.
A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 3/1960.
A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 93/1959, vol. 8, inv. 99.
A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 93/1960, vol. 13/2, inv. 99.
A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 93/1960, vol. 8, inv. 95.
A. S. S. C., fond Direcția de studii (Research Directorate fond), file no. 94/1961, vol. 7, inv. 80.
A. S. S. C., fond Direcția de studii (Research Directorate fond), Lungeanu Ion Emil. *Studiu general al Cultului Penticostal din România (General Study on the Pentecostal Cult in Romania)*, 1974.

Meanings of the Sabbath Revisited: Time and Space, Presence and Dwelling

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ABSTRACT: The seventh day of creation is the day of the Presence, the day of God's dwelling with the created world. The Sabbath becomes the reverberation of this reality. However, are there levels of access that can be discerned in the sabbatical experience? Regarding the Sabbath as sacred time, we can distinguish at least two levels or stages of proximity, one general and the other one special. These stages can be delineated more precisely if we first identify them in space before tracing them in time. Thus, starting off from the general *stage of the Presence* and further building on it, both *the meeting* and *the fellowship* comprise together the superior, ultimate stage – the Holy Grail of the sabbatical experience. The full experience that is referred to is expressed in the text in terms of “rest.”

KEYWORDS: seventh day, Sabbath, Presence, meeting, fellowship, rest

Introduction

This study is the second part of my research about the significance of the Sabbath in the Hebrew Bible. In the first one I analyzed and interpreted the foundational text that provides us the meaning of the seventh day of creation, Gen. 2:1-3. The main conclusion of the previous research was that the seventh day is *the time of the Presence*, when the Creator stays with his creation, after finishing His work. The seventh day is not just the first day of creation being fully operational, but firstly the day of the creation's work being finalized. On the seventh day, God joins this time-space framework, completing His work: God *is* the content of the seventh day. God's continuing Presence with creation sets the scene for a relationship between God and the world and, in a special sense, between God and the human being.

In this study we shall explore the dimensions of this relationship, that are expressed both in the spatial and in the temporal coordinate. First, we will analyze the elements of space referring to the Presence, to find the levels on which this relationship is expressed and secondly, we will look for these levels in the temporal dimension, with relevance for the Sabbath – our theme of interest. (All the biblical texts are given in my translation, unless indicated otherwise).

1. Presence, meeting and fellowship

The seventh day introduces us to a general level or stage of proximity, corresponding to the entrance of the divine into a relationship with the world – *the stage of the presence*, that testifies for the dwelling or the remaining of the divine Presence with creation. Beginning with the Garden of Eden, we are introduced into a closer stage of this relationship, which has the (hu)man in focus, as representative of creation and the singular being capable of entering into dialogue with God. This is *the meeting stage*, and it implies certain limits and specific features. This setting also becomes the environment where the final stage of the relationship is attained – *the fellowship stage*. Starting from those stages, first observed in the spatial coordinates, we will explore the links between the Sabbath and the Presence, tracing them in the temporal coordinates.

It is important to state that the identifying three proximity stages is somehow subjective and didactic: subjective because they are relevant only for the relationship between God and

humans, and didactic because one can say that they are actually two, the meeting and the fellowship being aspects of the same stage of maximum proximity, and they could not exist apart from each other. Yet, I considered that for this discussion it is relevant to separate them in three, although sometimes they will be dealt with together.

1.1. The stage of the Presence

From the Creator's perspective, creation becomes, from the seventh day on, a permanent locus of the divine Presence and thus of the holiness, seen in its relational dimension. The portrayal of creation as a dwelling of the divine King shows up in the interpretations of the late Jewish literature (Freedman and Maurice 1939, 340). The identification of "the heavens and the earth" with a palace/temple of the divine King (see Kline 2000, 27) is a recurring motif in the biblical text (Is. 66:1; Ps. 11:4; 104). Moreover, the idea of the Tabernacle as a symbol of the universe appears in the postbiblical Jewish literature (Flavius, *Ant.* 3.7.7). Thus, in the Jewish representation of the world, the sanctuary was a microcosmos, a miniature of the created world, in which God resides as King. From this point of view, the creation account can be seen as a liturgical hymn. "A sanctuary is the cosmos in miniature, and the cosmos itself is a sanctuary, depending on which way you look at it." (Averbeck 2003, 817).

Another point of correspondence between creation and the tabernacle is the heptadic structure (six-plus-one) of the creation story in Genesis 1–2:3, which one can find as well, even on the level of linguistic correspondences, in the account about the construction of the tabernacle (Exodus 39–40). The instructions for the construction of the sanctuary include seven divine speeches, and the seventh includes the Sabbath commandment (Ex. 31:12–17). These elements, plus others not mentioned here, are reminiscent of the six-plus-one structure found in the account about the making of the world. As a matter of fact, the activities that the Rabbinical Judaism forbids on Sabbath day were elaborated based on the thirty-nine classes of activities connected with the building of the Tabernacle.

These correspondences connect creation to the sanctuary imagery and bring into focus the sacred character of the whole world. In a general sense, the whole creation is a sacred *space*, which God the Creator made His home.

1.2. The meeting and the fellowship stage

This macrocosmic perspective is reflected in a limited, unique space in creation – the Garden of Eden. The biblical story situates this space in the land of Eden, making explicit that the (hu)man (*'ādām*) was created outside of the garden: "And *YHWH Elohim* planted garden-in-Eden, to the east, and He placed there the man that He had formed" (Gen. 2:8). The biblical text makes obvious that the Garden was distinct from the rest of creation. After the man was "formed" from the dust, the Garden was "planted," and the man was "placed" inside it (Gen. 2:7–8). Even the order of creation inside the Garden does not follow the same progression as in Genesis 1. The Garden seems to be a distinct entity, brought into existence after Adam's creation. The term *gan* means "enclosure," "garden" and denote a clearly defined space.

We notice man's (and woman's?) role within the Garden precincts, which is different from that assigned in Genesis 1. In the Garden, Adam was given the task of serving (*'ābaḏ*) and guarding (*šāmar*), while in the previous story they were told to rule over (*rāḏā*). In the Garden story, God established limits for humans: a certain tree is prohibited from their consumption. Transgressing these limits would bring on death upon them. In this setting, a new relationship is brought into view: that between man and woman. All these elements portray the Garden as a *relational space*: here, the relationships between God and human, and between man and woman are developed. Drawn limits are secondary to the relationship and contingent upon it, and that is because the relationship implies a covenant. Thus, the Garden was a part of creation, assimilated to it, but featured an extra element – *the divine-human relationship*, with all the implications that derive from this.

We cannot list all the correspondences between the Garden and the Jewish sanctuary (e.g., the east-west orientation, a single entrance from the east, the lampstand in form of a tree etc.; for an exhaustive list see Wenham 1986, 19–25). However, it must be said that both spaces share the same function at the core: the dwelling together, the residence of God with the (hu)man (Ex. 25:8). In both spaces, the Presence of God became manifest. The expression *p^enē yhw^h*, “the Face of YHWH,” (Gen. 3:8) mentioned for the first time in the Garden story, is equivalent to *lipnē yhw^h*, “in the Face of YHWH” (Ex. 16:33; Lev. 4:6 etc.) that occurs frequently in relation to the holy-of-holies and the sanctuary (for the identification of “face” with “presence” in the Hebrew Bible see Terrien 1978, 65). As we just mentioned, the name YHWH, that is the Name of the divine Presence, occurs for the first time in the Garden story. The role given to the man is similar in both spaces, the same terms *‘ābaq* and *šāmar* from Gen. 2:15 being used together to depict the ministry of the priests and Levites in the sanctuary (Num. 3:7–8, cf. Num. 1:53). If we add up to these similarities the connection identified in the biblical text between creation and the building of the sanctuary, we come to the same conclusion as Weinfeld, that the two structures are „typologically identical” (Weinfeld 1981, 503). Consequently, the coming of God into the sanctuary was interpreted in Israel, as in other traditions of the ancient Near East, as “rest”, „similar to the rest of God on the seventh day of creation” (Weinfeld 1981, 501 cf. Ps. 132:8.14).

In the light of this identification, we can assimilate the Garden to the holy-of-holies and the tree of life to the ark, where the Presence manifested itself. The fact that man had to consume the fruits of the tree of life to live on, hints to the final stage of the human-God connection, *the fellowship stage*. Thus, the goal of the divine-human meeting by sharing the same space – first the Garden and then the sanctuary – was to fulfill the fellowship of the two beings: God the Creator, the Ruler of the world and the human, the one created in the likeness of God, he (they) being also ruler(s) of the world.

In Lev. 26:11–12, the sanctuary represents not only a physical space, but also an experience identified by the “walking” of YHWH in the middle of Israel, a picture that evokes YHWH Elohim walking in the Garden of Eden (*mīthallēk*, Gen. 3:8). Dwelling with the Presence is conditioned by the observance of the commandment. By means of the Garden, God offers His Presence fully to the humans, giving them the possibility to remain or not in this relationship, the commandment being the prerequisite of remaining in the rest rather than the test for its full realization (cf. Timmer 2009, 81–82).

Barth has seen God’s restrain from work on the seventh day as a way of expressing His freedom (Barth 1961, 215). God works and refrains from working whenever He wants. Likewise, the Garden offers to the human being the freedom to stay in or to go away from the divine Presence. The human obeisance is the key element in this setting. While the creation story represents the structural, basic level of organization in the world’s existence (separation, hierarchization, naming, establishing functions), in the Garden story we are introduced into the relational level of the existence. Creation exists only to be in a relationship with the Creator, through its representative – the human being. When this relationship breaks down, the man and the woman are displaced from the Garden, as a symbol of the relational failure.

After the fall, the access to the tree of life is banned, as an expression of the fact that man cannot live in the divine Presence unless he/she also accepts the conditions of staying in this Presence. In this way, the Garden represents a space of the divine-human meeting, with a stress on the moral aspect of the relationship, which involves direct interaction, personal commitment, responsibilities, and limits. This model was the prototype for later building the sacred spaces. The tabernacle, then the temple, were meant to offer again the possibility of meeting and of fellowship, by restoring the human access to the divine Presence.

However, the Garden was not made explicitly holy, and neither was any other space. The sole mention of the term *qādaš* in Genesis is aimed for the seventh day. This observation is important, as it expresses the priority of time over space.

We can find the most significant connection between the sanctuary and the Garden of Eden in YHWH's utterance regarding the purpose of the sanctuary. Even from its beginning, the fragment that portrays Moses receiving the instructions for the construction contains the *raison d'être* of the edifice: "Let them make a sanctuary (*miqdaš*) to me and I will dwell (*wēšāḳantî*) amongst them" (Ex. 25:8). Thus, the sanctuary represents a structure in which is reflected YHWH's desire to live with humankind from the very creation in a particular way, in His relationship with the Hebrew people. By extension, one can argue for a correspondence between creation and the exodus, where YHWH is said to have gotten Israel out of chaos (*tōhū*), hovering (*yeraḥēp*) like an eagle over its young and leading them to the Promise Land (Dt. 32:10-11), where he gives them rest (*hēnīah* – Dt. 12:10; 25:19 etc., cf. Ex. 33:14).

We can notice that the verb *šāḳantî* is an echo of the Garden's cherubim, stationed at its entrance to guard the way to the tree of life (*wayyaškēn*, "cause [them] to dwell"). From the same verb (*šāḳan*, "to dwell") comes the noun *šēḳinā*, which denotes, in the Jewish literature of the later time, God's Presence in the holy-of-holies. A connection is thus made between the two, linking what is carried on in the sanctuary with that moment of expulsion. In a specific way, the access to the Presence of God in the sanctuary was controlled by the priests, as an echo of the celestial guardians (Num. 3:10.38). There were strict rules as to who, when, to where, in what conditions and to what extent could someone get close to the divine Presence. In some cases, the Presence has reacted fiercely when those approaching it ignored the established rules, or if they came with an inappropriate attitude, the result of this misconduct being always death (e.g., Lev. 10:1-7; Num. 16:35 etc.).

The connection between the Name and the Presence in the Torah is established by the fact that the Name "dwells" in the sanctuary (*lāsūm 'et-šēmō šam lešiknō* – "to establish His Name there for His dwelling," Dt. 12:5; *lešakkēn šēmō šam* – "for His Name to dwell there," Dt. 12:11 etc.). It follows that, in the Torah, the Presence of YHWH and the Name YHWH represent one and the same reality. In fact, this identification is apparent from other situations too, as invoking the Name over the people, which means blessing them (*wēšāmū 'et-šēmī 'al-benē yiśrā'el wa'anī 'abarākēm*, "and they will put My Name on the people of Israel and I will bless them," Num. 6:27) and the statement that the divine Name brings YHWH close, and also His blessing (*b'kol-hammāqōm 'ašer 'azkîr 'et-šēmī 'āḥō' 'elekā ūḇeraḳtīkā*, "in all the places where I cause My Name to be remembered I will come to you and I will bless you," Ex. 20:24).

From the same perspective we can understand why it was necessary for the High Priest to carry the names of the twelve tribes of Israel on his garments, *wenāšā' 'ah'arōn 'et-šēmōtam lipnē yhw' 'al-šētē kēṭēpāyw lezikkārōn* – "and Aaron will carry their names before YHWH on the two shoulders of his for remembrance," Ex. 28:12. In this way, through the Sanctuary, human's presence and God's Presence were in permanent contact. The sanctuary achieved both the coming of the people into the Presence of YHWH, and the coming of YHWH to the people, through the priestly ministry. The sanctuary becomes, in a very real sense, a place of a human-God meeting (*mō'ēd*).

Cassuto highlights the necessity of the people being aware of this Presence of God, living among them:

In order to understand the significance and purpose of the Tabernacle, we must realize that the children of Israel, after they had been privileged to witness the Revelation of God on Mount Sinai, were about to journey from there and thus draw away from the site of the theophany. So long as they were encamped in the place, they were conscious of God's nearness; but once they set out on their journey, it seemed to them as though the link had been broken, unless there were in their midst a tangible symbol of God's presence among them. It was the function of the Tabernacle [literally, 'Dwelling'] to serve as such a symbol (Cassuto 1967, 319).

Given that the sanctuary served as a facilitator for the people's awareness of the divine Presence, as well as a restoring agent for the relationship between the two beings following the

fall, we will now pursue the connection between the seventh day and the divine Presence, and also the role of the Sabbath in restoring the original relationship between God and mankind.

1.3. Creation, sanctuary and Sabbath

In Genesis 2:1–3, the seventh day hints to the goal of creation, that is the dwelling of God’s Presence into the world. By considering the Garden experience and trying to look at it through the view expressed in Gen. 1:31, we can tell that God’s declaration that “all were exceedingly good” also includes that special connection with the humans, as it is described in Gen. 2:4–3:24 or, as K. Barth said, God refrains from work in the seventh day when “He has found the object of His love” (Barth 1961, 215).

In his study on creation, sanctuary and Sabbath, Timmer reaches the conclusion that what links together these realities is the concept of “rest,” that is a common denominator of them. This rest can be accomplished only within the covenant. As we have seen, the sanctuary represents a space that allows God to dwell amongst the people. The direct links to creation and Sabbath, placed at the key points of the instructions for the building of the tabernacle, and also the correspondences between creation/Garden of Eden and the sanctuary, lead us to consider, along with Timmer, that the “tabernacle and sabbath are conceptually joined [...] as early as the first creation account” (Timmer 2009, 144). He explains this as follows:

God’s unobstructed communion and presence with humanity was the goal of creation, but the entrance of sin meant that this goal could not be achieved apart from the resolution of sin and its consequences. The tabernacle is an intermediate point on the spectrum of God’s presence with humanity, partially because the problem of sin is not fully resolved by the mechanisms of Sinai covenant of which it is a part. Its association with the sabbath accentuates the expectation that God will act eschatologically to resolve his people’s insurmountable lack of full sanctification and bring those whom he forgives and sanctifies into the full enjoyment of his rest (Timmer 2009, 145).

Consequently, while the tabernacle represents a temporary structure, one that recalls Eden, but sets access limits because of the sinful condition of the people, the Sabbath itself recalls the continuance of the residence of the divine Presence in creation, despite of sin, as a perpetual promise that God will not abandon the object of His love even after its disloyalty.

Elaborating on the meaning of the Sabbath as a *sign* of the covenant at Sinai, Timmer observes that, even from the beginning of the Exodus experience and after the crossing of the Red Sea, the biblical text “already hinted that restful life in the land was a goal of the exodus, to which it adds the goal of Yahweh dwelling among his people” (see Ex. 15:17) and that “rest is made the goal of the Sinai covenant in many ways” (Timmer 2009, 56). In Timmer’s view, the reason for which the Sabbath represents the sign of the covenant at Sinai has to do with the goal of the covenant – rest, that involves the divine sovereignty and the Presence of YHWH. It is not difficult to see why the Sabbath, a day of refraining from the creative activity, becomes the key to the covenant of rest. Indeed, for a people just released from the slavery of continual work, “rest” is the most powerful symbol for defining the relationship between God and man. This is the reason why, unlike in Genesis where the verb *šābat* (“to cease”) is linked with the seventh day, in Exodus this ceasing receives content and positive meaning through the verb *nūah* (“to rest”).

This has led the rabbis to infer that God has given the Sabbath to Adam in Eden. In *Bereshit Rabba*, the first Jewish thorough and systematic commentary, as Neusner describes it in the introductory part of his English version (Neusner 1985, ix), finished at the beginning of the 5th century CE, a connection is made between what was given to man as a task and the rituals to be performed at the temple, and the Sabbath as well. The rabbis interpret the term *wayyanniḥēhū* in Gen. 2:15 (“and He placed him”) as referring to the Sabbath: “‘and he put him’ (Gen. 2:15) means that he gave him the religious duty of observing the Sabbath (נתן לו מצבה שבת)” (Neusner 1985, 175–76). The interpretation is not without fundament, as *wayyanniḥēhū*, coming from the root נ.ו.ח (*n.w.h*), means literally “and He caused him to rest.”

Of course, the wording does not necessarily imply the sabbatical rest, as the phrase could mean here rather “setting him in a place where he could rest,” but the midrash makes a connection with Ex. 20:11, “and He rested in the seventh day,” where it is used the same verb *nūaḥ*. The verbs *ʿābaḏ* and *šāmar* are interpreted in a similar manner, using the method of analogy (*gezērā šāwā*), one of the rabbinical rules of interpretation, according to which distinct texts are connected based on common words or phrases. Thus, *ʿābaḏ* is linked with *taʿabōd* in Ex. 20:9, “six days you shall work”, and *šāmar* is linked with *šāmôr* in Dt. 5:12, “keep the Sabbath day to make it holy” (Neusner 1985, 175–76).

2. The time of the Presence

Given these three stages of interaction with the Presence, that emerge from the study of the sacred spaces, we will further try to see how the created world interacts with the Presence from the time perspective, seeking to find out how are Presence, meeting and fellowship accomplished in this dimension, and what are the aspects that enable the Sabbath to function as the fundamental environment for the divine-human interaction.

Finally, we will examine this connection established between Sabbath and Presence through the texts that speak of the Presence’s rest – which emerges as the purpose and the final goal of the divine creation. In this way, by restoring the seventh day of creation, the Sabbath becomes the guarantee of this Presence, beyond the Garden’s gates, a time of Presence that ensures that the initial relationship established at the end of creation would continue.

The general stage of the interaction with the Presence in time, as we mentioned earlier, is reached as soon as the creation is completed, and it is hardwired in the created order of six days plus one. That is why this original setting needs to be re-enacted for the next stage to be reached. The episode that witnesses about this is recounted in Exodus 16.

2.1. Rhythms of the Presence

The first fragment that refers to the seventh day, after Genesis 2, is Exodus 16.

This text is particularly important for the understanding of the meanings of the Sabbath, being the first fragment that contains the noun *šabbāt*. Here we are recounted an episode from Israel’s journey through the wilderness. Following the people’s dissatisfaction regarding the lack of food, God offers them the manna. In the same instance, God tests (*nāsā*) the people regarding the Sabbath day (verses 4–5, 28). Moreover, YHWH refers to the Sabbath by *tôrātī* – “My law” and *mišwōtay wʿtôrōtay* – “My commandments and My laws”. What puzzles us in this story is that the Sabbath is referred to as being known by the people even before the giving of the Law on the Mt. Sinai.

There is also a quite strong correspondence between Exodus 16 and Genesis 2:1–3, verse 30 – *wayyišbēʿtū hāʿam bayyôm haššēbīʿī* – being an almost identical rendering of the wording in Gen. 2:2 – *wayyišbōt [ʿlōhīm] bayyôm haššēbīʿī*. Also, the phrase *šabbātôn šabbat-qōdeš layhwh* (verse 23) contains, for the first time in the Hebrew Bible, the nouns *šabbātôn* (“sabbatizing”), and *šabbat* (“ceasing”, “Sabbath”) together in the same place. The mentioning of *qōdeš* in connection with *šabbat* is an allusion to the seventh day of creation, which God sanctified after the six days of activity.

By comparing both texts at the conceptual level, we notice that the divine creative activity in Genesis corresponds to the activities of gathering and preparation of food carried out by the humans, and in both cases the seventh day/Sabbath means ceasing from these activities. God is offering the food daily and people’s only task is to gather and prepare it for eating. On the seventh day, God ceases from His activity and the people also cease from theirs. Although they cease from gathering and processing the resources, people do not lack food on Sabbath because, as an exception, the food gathered on the sixth day is still good to eat on the next day. As Frey observes, both texts in Genesis 1 and Exodus 16 feature the gift of food followed by

the seventh day, as one of the elements that support the interconnection of the two fragments (Frey 2011, 106).

At a deeper level than food, Exodus 16 shows in fact how God educates the people's perception toward the Presence of YHWH. Thus, as a response to the people's complaints that lacked food, first of all the Lord shows His glory in the cloud (verse 10), the glory being associated with other key moments when the Presence of God is manifested in a visible way (the giving of the Law on Sinai, the inauguration of the tabernacle etc.). The cloud, though, has always been there since the crossing of the Red Sea. The text highlights the attention, the turning of face, the focus. It is necessary that the people "turn their face" to the wilderness. This is not by chance, since the wilderness is the source of the people's greatest fears (verse 3, "that you brought us out in this wilderness to cause all this assembly to die by hunger"). But the wilderness is also the place they need to look to in order to see the glory of the Lord, the source of their help and the answer to their needs. This turning of attention to the Lord is the first step in the people's training to perceive the divine Presence that was already in their midst.

The next step is the gathering of the manna that regularly falls every day, satisfying their physical needs. The people perceive daily the Presence of the Lord in the form of food, the answer to their immediate need.

Nevertheless, in the seventh day, the manna does not fall anymore, and the people is let to enjoy food without gathering it. The meaning of the Sabbath here is obvious: it means ceasing from acquiring and preparing food. What needed to be seen as the natural order of things (six days plus one) had to be imposed by command (verses 23–29), because the people did not resonate inside themselves anymore with this order. Regarding verse 29, Frey notices in the text an ironic comment to verse 3, where the people are complaining and lament, saying that they wished to have died in Egypt, where they sat (*yāšab*) by the pots of food, and reproaching Moses and Aaron that they made them get out (*yāšā*) in the wilderness to die. In verse 29, at the end of the command regarding the Sabbath, the people are told to sit (*yāšab*) and not go out (*yāšā*) from their dwellings. "The irony of these two verses shows that it takes a command of YHWH to implement what the people initially wished for, to sit or dwell and eat, and that this desire can be fulfilled only on the Sabbath" (Frey 2011, 103).

We find here the same principle that we found in the creation account in Gen. 1–2:3. God is present beyond activity, resources, or the physical world. By ceasing from their work in the seventh day, the people learn to be aware of God's Presence even when they don't receive food from heaven. This is the first step toward transcending the corporeality and the slavery condition. Thus, for the first time when it appears in the book of the Exodus, the Sabbath is the first clue to the freedom of spirit.

The content of the Sabbath day seen from the perspective of the relationship with the Lord's Presence will be uncovered by means of the shewbread ritual at the sanctuary.

2.2. *The Presence as fellowship*

Another element that connects food and Sabbath is *leḥem happānīm*, "the bread of the Presence" (Ex. 35:13; 1Sam. 21:6 etc.). The ritual is described in Lev. 24:5–9. Every Sabbath, the priests arranged the twelve loaves of bread on the table in the Holy Place. They remained on the table the whole week, till the next Sabbath, when the priests replaced them with new bread and following the replacement they ate the old bread, "in order that the priests who ministered to God should have the privilege of eating from God's table" (Cassuto 1967, 337). At the end of the instructions for the setting of the table on which the bread was to be placed, it is stated: *w^enāṭattā 'al-haššulḥan leḥem pānīm l'pānay tāmīd* – "and you shall put on the table bread of the Presence before Me continually" (Ex. 25:30). The most natural meaning of the phrase "bread of the Presence" (lit., "bread of the faces") is, according to Ibn Ezra, that "the breads were called thus as the Tora itself describes G'd as viewing them as constantly in His presence, i.e., enjoying His attention, *lifnei tamīd*" (R. Jacob ben Asher, *Tur HaAroch*, Exodus

25:30). But what is the meaning of placing the bread in the Presence of the Lord? And what signifies its renewal every Sabbath?

In the Talmudic rendering of the ritual, it is stated that the priests entered the place and approached the table, four of them on one side and four of them on the other side, facing each other. Those coming from the North brought the fresh bread and the incense, and those coming from the South ready to take the old bread and the incense: “these withdrew [the old] and these laid down [the new], the handbreadth of one at the side of the handbreadth of the other” (Bab T. *Shabb.* 133b), the action of lifting and replacing being made simultaneously, to fulfill the *tāmīd* commandment. This picture is very suggestive, carrying the meaning of reciprocity and fellowship, an interaction in which both parties received food. Indeed, through this ritual, YHWH sat at the table with the humans. The fact that the bread of the Presence was offered and consumed at the same time on the very Sabbath day is not surprising at all, neither coincidental, but perfectly normal given the meaning of the seventh day as the day of the Presence. And this Presence requiring eating-together, that is a very powerful symbol for the kind of relationship that God desires to have with humans.

By putting the two elements together – the giving of the manna and the shewbread ritual – we realize the full meaning of the Sabbath: on Sabbath, God and human sit at the table, in fellowship with each other. Indeed, to eat together was, in the Near Eastern mentality, the most intimate expression of a relationship between two persons (Pedersen 1926-1940, 305). Both elements of food relate to the Presence in a spatial dimension. Thus, both are placed before the Lord: the bowl of manna was placed in front of the ark, “before YHWH” (*lipnê yhw*), while the bread was placed on the table, “before Me” (*lepānay*). If we consider that the term “Presence” (*pānīm*) is used as a substitute for the Lord Himself (Ex. 33:14; Dt. 4:37), the bread becomes a symbol for the Lord that offers Himself to the people. The bread that remained before the Lord became the bread of Presence, the seventh day being the most suitable timeframe for its consumption.

It is remarkable that both the manna kept in front of the ark and that gathered on the sixth day to be kept for the Sabbath did not alter their quality. There is an explicit connection that the text makes between the seventh day and the ark of YHWH. Both are places of the Presence in the highest degree – one in time and the other in space. Every Sabbath, each person consumed an omer of manna, the other omer being for the Lord, kept through the same miracle of His Presence. Thus, every Sabbath meal was an occasion of fellowship with the divine Presence. In the ritual of the shewbread, the consumption of the bread by the priests represents a more vivid picture of the consummation of this meeting between God and people, on the seventh day, on Sabbath. Because Israel is called “a kingdom of priests and a holy nation” (Ex. 19:6), we can say that, through the Levite priests, the whole nation was in fellowship with the Presence of YHWH, partaking of the bread of Presence every Sabbath.

The meaning of fellowship is added to that of ceasing. This idea is highlighted in the remaining of the book of Exodus through the concept of *rest*, which the seventh day relates to. The Decalogue command that establishes the Sabbath as a legal requirement for the people of Israel contains for the first time this aspect of rest in relation to the Sabbath. Thus, “in six days YHWH made the heavens and the sea and all that (is) in them and He rested in the seventh day, that is why YHWH blessed the Sabbath day and made it holy” (Ex. 20:11). The commandment restates all the elements in Genesis 2:2-3, except that it replaces “He ceased” (*wayyīšbōt*) by “He rested” (*wayyānah*). It is not a matter of chance that the verb used to describe man’s placement in the Garden is derived from the root נ.ח.ה (*n.w.h*), being a causative of the same verb *nūah* (“to rest”). Based on this common word, as we mentioned earlier, *Bereshit Rabba* makes the connection between Ex. 20:11 and Gen. 2:15 and say the Sabbath was given as early as the Garden of Eden.

The relationship between God and human, which has as its final goal the fellowship of the two beings, takes a definite form in the meanings allotted to the Sabbath by connecting it

with the ceasing from work and with food. The Sabbath recreates the Garden of Eden in the temporal dimension becoming, we could say, a “holy-of-holies” of the days. God is always present with and close by His creation, but on the Sabbath the human being comes even closer to His Presence. By connecting the seventh day/Sabbath with the concepts of *Presence*, *meeting*, *fellowship* and with the alternate concept of *rest* that includes all of the others, the Hebrew Bible creates a model and an interpretative framework of the time, by which the human being can experience the highest level of proximity to the Presence of God.

Conclusions

By combining the three elements that shape the meaning of the divine rest – the seventh day/Sabbath, the Garden/Sanctuary and the food/bread – we get a full picture of the divine intent regarding creation and the relationship that He desires with the human beings. Moreover, we can observe three stages of this relationship, corresponding to a certain extent to these three elements.

The seventh day creates the general timeframe of interaction between God and creation on the whole and represents the moment in *time* when the reality of the Presence is introduced to the world.

The Garden of Eden creates the specific setting of the divine Presence in relationship with the human – there are dialogue, commandment and obeying, covenant etc. – all these within the limits of a distinct *space*. Here we can also include the later manifestations of the Presence, which has delineated precise spaces that are given the quality of “holiness,” at least as long as they “host” the Presence: the burning bush (Ex. 3), Mount Sinai, the tabernacle, the temple. Among them, the tabernacle recreates in the most specific way the image of the Garden of Eden. The Presence in dialogue with man becomes *meeting*. At the burning bush, the Name of the Presence is revealed as *YHWH* – the same Name that appears for the first time in the Garden story.

The manna and the bread of Presence adds to this the idea of *fellowship*, as an action of the Presence. By overlapping these two instances, there come together the *time* of the Presence, the *space* of the Presence and the *purpose* of the Presence: Sabbath – sanctuary – fellowship.

We can represent the stages of divine-human relationship and the space–time correspondences in the following table:

Table 1. The stages of the divine-human relationship in space and time

<i>Coordinate</i>	Spatial	Temporal	<i>Instance</i>
<i>Stage of relationship</i>			
<i>Presence</i>	creation	six days	gathering of manna
<i>Meeting/Fellowship</i>	Garden/tree of life sanctuary/ark	seventh day/ Sabbath	bread of the Presence

We can represent the three stages of proximity to the Presence and the relations between them in the following manner (see next figure):

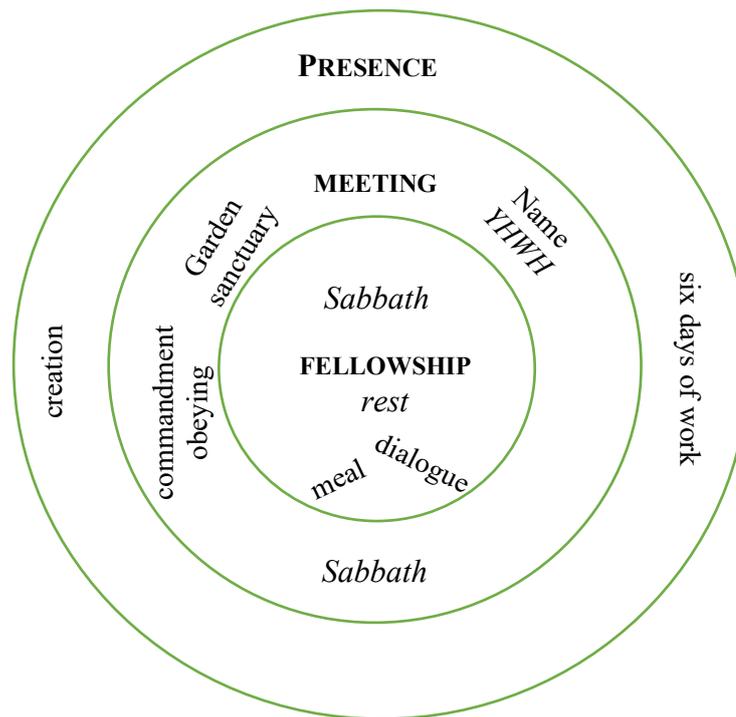


Figure 1. The stages of proximity, their elements, and the relations between them

As we can see from this figure, the seventh day/Sabbath represents the general timeframe in which this interaction between the Presence and the human being takes place. The Sabbath is, by consequence, the prerequisite of the meeting and fellowship stages. It is necessary to cease from “your work” to enter in connection with the Lord.

A reality reveals itself before us, one that was only introduced in Genesis, but unfinished, or better said, uncompleted, because of the break-up that human’s lack of loyalty created. By placing the elements of the Presence in the post-fall history, God fulfills the purpose that He had in view when created the world, continuing with His plan to receive mankind in the fellowship of His Presence.

All the three stages of the relationship between God and creation converge in the priestly ritual of fellowship with the bread of Presence. This took place on the seventh day (the time of the Presence), inside the tabernacle (the space of meeting with the Presence). Thus, the ritual reveals the core of the relationship between God and His creation: the fellowship of the masters – God and human.

While the Presence in space has been limited after the fall, the Presence in time continue to reside after this moment. There is no prohibition in Genesis or in another part of the Bible regarding the seventh day, which is available to anyone. Time is, by its nature, an edifice without restrictions of access – as much as it denies someone the possibility to escape from it. By ceasing from his activity, the man is placed at the entrance into another kind of time, where he/she is awaited, in a constant and continuous way, by the Presence of the Creator. Sabbath is thus the Garden without heavenly guardians to guard its entrance. From this perspective, the seventh day remains the access gate to the divine Presence throughout the entire creation, even without a delimited space of meeting.

Under the circumstances brought out by sin, the Sabbath remains a time of rest, both in its physical dimension and especially in its spiritual aspect. The “work” of Adam inside the Garden has different connotations outside of it, being accompanied by “toil,” “thorns and thistles” and “sweat.” In this context, ceasing from work on the Sabbath has an important role, although not the most important. The ceasing is not the end, but the means that enables humans

to enter in a closer relationship with the Lord. As we could see in Exodus 16, God strives to imprint into the human mind the rhythm of six plus one, bringing back the order of creation into their lives. By orientating themselves to the Lord (“they looked to the wilderness and saw the glory of the Lord”), the need of food leaves the area of chaos and discontent and enters the sphere of trust, of assurance about tomorrow and of dependence on the Lord. The receiving and gathering of the food (*leḥem*) that came from heaven is the modality by which the people experienced daily the glory of the Lord, the visible manifestation of His Presence. By ceasing from any activity on the seventh day, the people had the opportunity to enter the complete rest, where all the needs are already fulfilled and nobody has to work anything, but to be at the table and enjoy the relationship. This “rest” can be experienced even before reaching the Promise Land, since wherever the Presence is, there is rest. For the people of Israel, the Sabbath becomes the sign of the holiness, that comes from this dwelling in the Presence of God. This holiness is not limited to a certain ritual, performed at certain times, but it flows from a perpetual rhythmicity. Once every seven days, Israel entered the Presence of the Lord, to keep themselves into the holiness, that is in the relationship with the Lord. No matter where they were during their existence, once every seven days, in a distinct sense, Israel would rest in the Promise Land, they returned in the Garden of Eden.

No need to say, Israel is just a model for what men can experience in the relationship with the Presence. As long as creation exists, the Sabbath is the God designed way to connect with the transcendent at a deeper level and to experience the Presence of the Creator.

References

- Averbeck, R. E. 2003. “Tabernacle.” In *Dictionary of the Old Testament: Pentateuch*, edited by T. Desmond Alexander and David W. Baker, 807–26. Downers Grove, IL: InterVarsity Press.
- Barth, Karl. 1961. *Church Dogmatics*. Edinburgh: T & T Clark.
- Cassuto, Umberto. 1967. *A Commentary on the Book of Exodus*. Jerusalem: Magnes Press.
- Elliger, Karl, and William Rudolph, eds. 2003. *Biblia Hebraica Stuttgartensia*. 4th revised edition edited by Adrian Schenker. Stuttgart: German Bible Society. Accordance edition.
- Flavius, Iosif. 2000. *Antichități iudaice*. Vol. 1. București: Hasefer.
- Freedman, H., and Maurice Simon, eds. 1939. *Midrash Rabbah. Genesis*. Vol. 1. London: Soncino Press.
- Frey, Mathilde. 2011. “The Sabbath in the Pentateuch: An Exegetical and Theological Study.” *Dissertations*. Paper 51. PhD Dissertation, Andrews University.
- Kline, Meredith G. 2000. *Kingdom Prologue*. Overland Park, KS: Two Age Press.
- Neusner, Jacob. 1985. *Genesis Rabbah: The Judaic Commentary to the Book of Genesis; a New American Translation*. Brown Judaic Studies 104-106. Atlanta, GA: Scholars Press.
- Pedersen, Johannes. 1926–1940. *Israel: Its Life and Culture*. 2 vols. London: Oxford University Press.
- R. Jacob ben Asher. *Tur HaAroch*. Sefaria Project. Accessed October 13, 2020. www.sefaria.org.
- The William Davidson Talmud*. Sefaria Project. Accessed October 13, 2020. www.sefaria.org.
- Timmer, Daniel C. 2009. *Creation, Tabernacle, and Sabbath*. Göttingen: Vandenhoeck & Ruprecht.
- Weinfeld, Moshe. 1981. “Sabbath, Temple and the Enthronement of the Lord—The Problem of the Sitz im Leben of Genesis 1:1–2:3.” In *Mélanges bibliques et orientaux en l'honneur de M. Henri Cazelles*, edited by A. Caquot and M. Delcor, 501–12. Neukirchen-Vluyn: Neukirchner Verlag.

The Miracle of the Embodiment in the Quran

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ABSTRACT: Within an intercultural dialogue and even between the two religions, we consider that the starting point should be one about which both parts agree. Christianity and Islam are religions that consider the birth of Christ a miracle. At a quick look in the Quran and the Bible we can notice that both sources are alike in many ways. Taking into consideration the appearance of both writings, it is possible that the Biblical description might have influenced the Quran writing or that the Quran writing might confirm the Biblical narrative or that the Quran writing might confirm the Biblical narrative completing it with some other aspects which are not mentioned in the Biblical text. The aim of the present paper is to render The Quran perspective taking into consideration the Biblical narrative.

KEYWORDS: Jesus, Messiah, birth, miracle

Sura 19 renders the longest version of announcing the birth of Christ, although there are also other short references.

Sura 19.16 – 16. And mention in the Scripture Mary, when she withdrew from her people to an eastern location. 17. She screened herself away from them, and We sent to her Our spirit, and He appeared to her as an immaculate human. 18. She said, "I take refuge from you in the Most Merciful, should you be righteous." 19. He said, "I am only the messenger of your Lord, to give you the gift of a pure son." 20. She said, "How can I have a son, when no man has touched me, and I was never unchaste?" 21. He said, "Thus said your Lord, 'It is easy for Me, and We will make him a sign for humanity, and a mercy from Us. It is a matter already decided.

Another Quran reference about this event is found in sura 3-37/42-3:42-47. We can also refer to sura 21:19 și 66:12 „And Mary, the daughter of Imran, who guarded her womb, and so We breathed into her of Our Spirit; and she believed in the truth of her Lord's Words and His Books, and was one of the devout.”

There are many interpretations for Mary's withdrawal 'in a place in the East ', being covered 'with a veil'. The book of James affirms that Mary was working at a veil for the temple, in her own house, when the angel showed himself to her. Neither the Quran nor the Bible place the announcement of Jesus in the temple, and Maulana Azad, a modern exeget says that 'the place in the East' is Nazareth, which is 'confirmed by the New Testament' (Tottoli 2002, 215).

All the other Quran narratives mentioned above agree with the Gospel of Luke. In this context, in Quran the angel is not named Gabriel (Jibril), although in other parts of the Quran he appears as the revelation angel, and commentators supposed that he had appeared before Mary (Ata ur-Rahim 1987, 144).

Quran rejects all the allusions about Mary not being a virgin, or about the association between divinity and a woman, as antique classics or the Arab myths might suggest. But commentators were not exempt from the speculation that this is more legendary than Biblical. In his chronicle, Tabari affirms that Gabriel was sent to Mary to blow in her blouse so that she could remain pregnant, receiving, apparently, the spirit. Baidawi renewed this idea, according to which Gabriel breathed into Mary's shirt. Tabari advocates that Gabriel appeared to Mary having the physical appearance of Joseph the carpenter, because Mary had never seen another man, except for Zachariah and Joseph. And Gabriel told her she will be given a son,

Mary was afraid that Joseph came to have intercourse with her. But Gabriel said that God wanted to create a child without a father and make him a prophet. This is a vulgar legend, that has no Biblical support (Parrinder 2003, 73).

In the past, it was inferred that the teaching of the Quran talked about the birth of Jesus from a virgin. Some Christian apologists suggested that Mary's virginity arises from Sura 3;31/36. It was doubted that the Quran talks about the birth of Jesus from a virgin, without a humanly father. Some Christians and modern Muslims, who doubted the birth from a virgin due to scientific or historical reasons, tried to give a more natural interpretation to the words in the Quran and the Bible.

Older commentators considered that Jesus 'was born without a father'. Baidawi believe that the angels who addressed themselves to Mary represented a spontaneous miracle in her honour, although he admitted that even then there were some who denied the doctrine about spontaneous miracles, and others affirmed that the angels put those words in her mind (Parrinder 2003, 72).

Although the birth from a virgin was accepted, this situation did not confer Jesus priority over the other prophets, because such a rank does not only depend on his birth. Zwemer quoted the modern Muslim teachers, who said that 'His birth from a virgin does not prove his superiority', because 'Adam did not have a mother or a father and in this regard he was superior to Jesus'.

Ibn Ishaq suggests that this idea was discussed during the time of the prophets, together with the Christians from Najran and Abyssinia:

Jesus was conceived in a womb – they cannot deny this- just like any other son of Abraham... God made him through His spirit and breath... Although it is stated that Jesus was conceived without man's interference, I created Adam from dust, using the same power, without a man or a woman and Adam was created in the same way as Jesus : body and soul with hair and skin. Jesus' conception without a man is is by far more wonderful than Adam's creation. (Ata ur-Rahim 1987,102)

Some modern Muslim writers claim that the Quran contains no teaching about the birth from a virgin. Others, such as Maulana Azad, believe that, despite a rationalization, taking into consideration the context, the fact must be admitted that this dogma is accepted by the Quran (Parrinder 2003, 73).

If the whole Quran narrative can be interpreted as talking about the birth from a virgin or a natural one, is debatable. One more aspect must be mentioned here, the Quran denies again and again the fact that God gives birth or takes on posterity. One of the favourite verses is the one from sura 112, '*He did not give birth, nor was He born*'. And many times we read, '*He is far above having a son*'.

We must also observe here that the Quran is totally opposed to the notion of God's physical birth. Definitely, this was in contrast with the way in which pagans attributed wives and children to their deity (Ata ur-Rahim 1987, 103).

A similar objection seems to be reflected upon in the Book of Jacob. Mary told to herself:

Shall I conceive from God, and shall I give birth just as other women?" And the angel answered "Not like this Mary, for the power of the Lord will overshadow you; therefore he who is born of you shall be called the Son of the Mightiest.

The term 'Son' is used in a technical sense, but the passage seems to show that no seed from above was put into the woman, but the power of God had put it into shade (Jeffrey 2007, 213). So, the Quran proclaims the divine decision through the expression 'Let there be', without mentioning if the birth will take place in a natural way.

The birth

Sūra 19 continues with a rendering of the birth of Jesus.

22. So she carried him, and secluded herself with him in a remote place. 23. The labor-pains came upon her, by the trunk of a palm-tree. She said, “I wish I had died before this, and been completely forgotten.” 24. Whereupon he called her from beneath her: “Do not worry; your Lord has placed a stream beneath you. 25. And shake the trunk of the palm-tree towards you, and it will drop ripe dates by you.” 26. “So eat, and drink, and be consoled. And if you see any human, say, ‘I have vowed a fast to the Most Gracious, so I will not speak to any human today.’” 27. Then she came to her people, carrying him. They said, “O Mary, you have done something terrible. 28. O sister of Aaron, your father was not an evil man, and your mother was not a whore.” 29. So she pointed to him. They said, “How can we speak to an infant in the crib?” 30. He said, “I am the servant of God. He has given me the Scripture, and made me a prophet. 31. And has made me blessed wherever I may be; and has enjoined on me prayer and charity, so long as I live. 32. And kind to my mother, and He did not make me a disobedient rebel. 33. So Peace is upon me the day I was born, and the day I die, and the Day I get resurrected alive.”

There are some connections here with the Canonical Gospel, although perhaps more with the apocryphal. The withdrawal in a ‘far away place’ was taken to make reference to Mary’s travel from Nazareth to Bethlehem, which was a town although the baby was put in a ‘manger’. A modern Muslim commentator says:

We can assume that giving the news and the conception took place in Bethlehem. It was a distant place, not only referring to the 71 miles away from Nazareth, but also because the birth took place in Bethlehem in a dark corner, under a palm tree, from where the baby was probably taken to a manger from a stable.

Some writers saw in the ‘height with a safe living and a spring’ one of the places on the way during the Flight of Jesus’ parents with their child in Egypt.

Another Muslim tradition situated Mary’s tree on a hill close to Damascus. The story of Agar and Ishmael comes to our minds. Mary’s agony cries are pretty natural, although some youthful Muslim mystics have made curious reflections upon Mary’s deadly danger before abandoning herself again to God, as she had done before (Parrinder 2003, 76)

The meaning of the expression ‘he called her from her beneath’ was disputed and the reading is confusing. Some considered it as an angelic voice, like in Agar’s story, probably the angel Gabriel, sitting at the foot of the mountain, while others thought it was Baby Jesus. Some exegetes believed that Jesus talked to his mother before birth and they supposed that the word ‘beneath’ could not have here his common Arab meaning and that it must be a foreign word meaning ‘venter’ (Jeffrey 2007, 32).

In the Gospel of Pseudo-Matthew, a Latin writing, maybe compiled about the 8th century, although containing an older material, says that during the flight to Egypt Mary sat under the palm tree and craved its fruits. Joseph was much more worried about the lack of water. Jesus, in the arms of Mary, told the tree to bow and give his mother some of its fruits and the tree listened. Then, she told the tree to lift and give a little from the water hidden under its root and a spring stepped out and they drank and enjoyed themselves (Parrinder 2003, 77).

The Arab Gospel of childhood says they rested under a sycamore in Matarieh and there Jesus made a spring come out, where Mary washed his coat (Ata ur-Rahim 1987, 105). The sycamore from Matarieh, Heliopolis, is one of the four sides of the Flight revered in Egypt by Christians and Muslims and it is said to have transformed Egypt into a land of peace, but

today's sycamore replaced a palm tree in the 17th century. Tabari claims that Mary's tree was a dry palm tree, whose leaves fell down and whose branches were torn. He says that others claimed that in the temple there was a pillar of a palm tree which supported the building and that Mary leant upon this pillar, but he advocates that the other story according to which Mary gave birth outside the city is more comfortable for the Quran. E.F.F. Bishop suggests that the 'streamlet' or the 'runlet' was Pilat's aqueduct in Betlehem (Parrinder 2003, 83)

Mary is told to swear a fast to the merciful al-Rahman, one of the favourite Quranic names for God and apparently pre-islamic, possible christian, but incorporated in the new faith and taking place 56 times in the Quran, apart from its use in the Bismillah heading of each sura. This thing can be compared with the phrase from Mary's song, the Magnificent, 'God, my Saviour' (Luca 1:47) (Parrinder 2003, 78). The commentators explain that the 'fast' also meant that she had to refuse human conversation on the pretext of her vow made to god. It doesn't mean abstinence from food and drinks, as Mary was told to eat dates and drink from the river. This is the only mention about fast in the Meccan sura.

When Mary returned home with the baby she was accused of immorality. This can be compared to Joseph's hesitation, 'who did not want to expose her to public disgrace, he had in mind to divorce her quietly' (Matthew 1:19) There were discussions about the phrase 'Aaron's sister' (ukht Harun). Some consider that the phrase refers to a descendant of Aaron because the term ukht doesn't limit to a close blood relationship and Mary was Levit blooded. Others consider the phrase as a confusion sign with Miriam, who was Aaron's sister. However, others consider it as a kunya, a nickname or an epithet from Miriam, the famous ancestor of Mary.

The baby talking 'in the cradle' is mentioned in 3,41/46;5,109/110; şı 19,30/29. The traditions and older commentators took it literally. Baidawi said that even when he was a baby, but also when he was an adult, Jesus spoke in the prophet's language without variation. He even added that when Mary was little she also spoke like Jesus did later. Another tradition says that 11 children spoke in their cradles, although a contradictory commentary said that Jesus was the only one who did this because He was Mahdi, 'the guided', who spoke in his cradle (Ata ur-Rahim 1987, 112)

Ibn Ishāq said that Christians in Najran who came to see Mohammed discussed about the fact that Jesus 'spoke from his cradle and this was something that no other child of Adam had ever done' (Yusuf 1989, 1225). The only apocryphal reference seems to be the transcriber note from the beginning of the Arab Infantile Gospel, which says:

While being in a cradle, Jesus spoke and told his mother, "I am Jesus, the Son of God, the Word, whom you have given birth as the angel Gabriel informed you."
The modern editor remarks that this anecdote must have been quite early among Arab Christians

However, modern commentators tend to interpret these sayings as applied to Jesus at an older age, but still when he was a minor. It is said that old and educated Jews talked about a boy as a simple boy in a cradle and would not like to address to someone who is so young. Yusuf 'Ali tries to accept both possibilities, saying that the baby Jesus came through a miracle, defended His mother and preached to an incredible mass of people; then he quotes the words of the Gospel that say that Jesus grew in wisdom and in God's and men's pleasure and had disputed with the old men from the temple. Undoubtedly, the most satisfying parallel is the Gospel story of baby Jesus going with His parents to Jerusalem, asking questions to the teachers and saying: 'Did you not know that I had to be in my Father's house?' (Luke 2:49). The Gospel says that Jesus was 12 and he was still a minor. At 13 a Jew boy reaches his religious maturity and becomes a 'son of the command' (bar mitzvah) and from now on able to praise the law through songs and read the lesson in the synagogue service.

Conclusion

Truly the study of this subject can be a starting point in the dialogue between Christianity and Islamism. Both parts agree with the fact that the birth of Jesus was a miracle. Mary was a virgin before being pregnant, aspect that was humanly impossible. Both parts do not agree on other aspects that are less essential and important (the place, what Mary and Jesus did at the moment of birth), but the essential aspects are similar.

References

- Tottoli, Roberto. 2002. *Biblical Prophets in the Qur'an and Muslim Literature*. Curzon: University of Victoria.
- Ata ur-Rahim, Muhamed. 1987. *Jesus – A Prophet of Islam*. Lahore: Taj Company.
- Parrinder, Geoffrey. 2003. *Jesus in the Qur'an*. Oxford, U.K.: Oneworld Publications.
- Jeffery, Arthur. 2007. *The foreign vocabulary of the Quran*. Brill: Koninklijke Brill.
- Yusuf, Ali. 1989. *The Meaning of the Holy Qur'an*. Beltsville, USA: Amana Publication.

Hate - Between Good and Evil

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ABSTRACT: Is hate bad? Can hatred have good values for man and society? When it is born from deep, religious beliefs, is society entitled to question the source of this hatred, even if it is a religious system of any kind? Is Christianity a promoter of hatred? What does the Bible say and what did history say? How to harmonize the commandments that promote love, the care for ones neighbour with those that promote the opposite, namely hatred. Hate as well as love is not only a simple human feeling but also a choice that can become a way of life, that can shape destinies. Man is a sociable being, through his own construction he becomes a vector of feelings and decisions for those around him. For this reason, society can be loaded with love or hate and, in the end, can be characterized by one of them. But for the current analysis, the question is: can hatred be good?

KEYWORDS: hatred, religious hatred, hate crime (racial hatred), the valences of the word hate

Legitimate questions

Just saying the word "hate" often produces reactions that are largely justified. In human relationships hatred has caused a great deal of irretrievable damage, whether it is interpersonal relationships or interethnic or state relations based on extreme national sentiment. Hate is unanimously condemned and history is a true witness in the accusers' side that justifies this position. In contemporary society, examples are as telling as they are sad. The Taliban's or ISIS members are a current example of the damage done by hatred based on religious hatred. Although the term "religion" from Latin has the meaning of relegating broken or weak ties, many times religion used more to intensify hatred between people and instead of bringing them closer, it separated people more. History has witnessed many scenes based on the same hatred: crusades that led to innocent deaths just because they did not have the same vision of the spiritual life; countless programs against Jews based largely on unfounded, unjust accusations, but animated by the same religious based hatred. Although the list of problems created by religious hatred based on sacred texts could go on, it is enough to raise a legitimate question: Did God Himself demand the killing of enemies or those who do not share the same view of life and eternity? Or did He ask us to hate those around us? At least *the New Testament* is full of commandments, exhortations, and counsels concerning the relationship between people based on love and other feelings derived from it. The example of the Lord Jesus was one full of love and not any kind of love, but a sacrificial one for the benefit of one's neighbour. Hatred and just plain bad thinking against one's neighbour were drastically instilled as toxic and evil in its essence. What is to be done and how can one then understand the Lord's command given to His disciples in the *Gospel of Luke*, the commandment that reads: "If anyone comes to Me and does not hate his father, mother, wife, children, brothers, sisters, even his very life cannot be My disciple" (NTR Bible, 2010, Lk.14:25). Since this requirement belongs to the Lord who worked driven by sacrificial and perfect love, surely any reader of the text will ask pertinent questions. If Jesus Christ, considered the Savior in Christianity, chose to sacrifice Himself for the salvation of men out of love, how can He be reconciled to His request to the disciples? What would be the difference between His requirement and other religions that explicitly demand the destruction of those who do not embrace this religion? Or, doesn't this requirement have another meaning? The verb quoted in all the manuscripts is the same, namely, it appears $\mu\iota\sigma\epsilon\omicron$ in Greek (*Nouveau Testament, Interlineaire Grec / Francais* 1993, 343).

In interpreting or finding the meanings of the word "hatred," it must be taken into account that the Bible is much like a library with 66-books written over a period of about 1600 years. In such a period, the language is alive and flexible, any word tends to take on new meanings, and hermeneutics must take into account all these aspects. For this reason, extensive biblical hermeneutics is needed to understand how the perfect and demonstrated love of the Lord Jesus can be harmonized with His requirement to hate those close to him.

Theological optics on the verb "hate"

The New Testament was written in Greek, a language that has a long and rich history, and which has been loaded with so many meanings during it. Although the Greek language, compared to the Hebrew language, was much richer and more varied in terms of the words that compose it, it also has a greater variety of possibilities of grammatical expression and semantic meanings.

The Greek dictionary of The New Testament record the following: "There are many compounds with the "μῖσ" root. The idea of being hated by gods is very old... There is also an ethical imperative in the Greek world: hatred as a renunciation u,bsim meisei is already required in the precept of Delphica" (*TDNT* 1982, 684). An idea worthy of emphasis in the text is one of the semantic valences of the verb μῖσεω, namely hatred in the sense of giving up someone or something. You could say that a person hates another person if he gives up on her. The same meaning can be applied to a habit, especially a bad one, or to an object, when you give it up because it is not beneficial. This meaning fits perfectly from the biblical perspective if the required hatred of sin is taken into account, in the real sense of renouncing it. The use of the verb in classical Greek literature is also applied in the *New Testament* in certain circumstances, where God demands hatred of certain things or habits.

The translation of the *Old Testament* from Hebrew into Greek, with the original purpose of being accessible to the Jewish diaspora, who no longer knew the language in which the Bible was originally written, was also useful to Christian readers. This aspect is also valid to the analyzed verb. The authors of the dictionary mention the many valences of the verb in question, as it is in *LXX (Septuaginta)*: "The group of words μῖσεω μῖσος μῖσετος is also found in *LXX*, and μῖσετον ποιειν is especially common for ανεν (ha,n.vi). This hatred or displeasure can be of several types and can be presented in various relationships or external connections " (*TDNT* 1982, 685). As normal, the first valence of this verb is that of enmity between people, murder or boredom of a person towards other people, in the biblical case wife and husband. The authors carefully note these aspects: "The word is used for the first time when people are at enmity. In a trial, it is observed whether a man who is accused of murder, killed out of hatred or if it was unintentional. Very often a man hates his wife or is bored with the one he lives with. The opposite of "hating" in the Old Testament is always "loving" (*TDNT* 1982, 685). To these a few other valences are added to the verb, as found in the Old Testament, depending on the context, namely, to love someone more to the detriment of another, contempt, unfriendly attitude: "Love for two women leads to the fact a man loves one and hates the other, or that love turns into hatred. *Jud. 14:16; 2 Sam. 13:15; In Is.54:6* it refers to the wife who is less loved, therefore the μῖσειν is used as in *Deut. 21,15*. To hate means to feel disgusted or contempt, to be unfriendly, not to love " (*TDNT* 1982, 685).

The passing of a person in the background, in terms of affection or attention, is recorded in the Old Testament as hatred. Not only the hatred between people is related and regulated in the *Old Testament*, but also the hatred of God, about which the Bible writes. It is necessary to analyze this segment because the verse from which we started in the analysis of the verb is one in which Jesus Himself asks for hatred as a condition of discipleship. For this reason, clear connections must be sought between *New Testament* and *Old Testament* concepts. This analysis could be more accurate if one considers not only the valences of μῖσεω in human relations but also of the same verb in God's vision and requirement. Here is what the same

authors of the biblical dictionary record: " In the *Old Testament*, the concept of God includes the fact that He can hate and can produce hatred. A basic element in the proclamation of the Bible is that He hates the worship of the Gentiles (*Deut. 12:31; 16:22; Jer. 44:4; Ezech. 23:38*) " (*TDNT* 1982, 686). The observation is that God can hate and it is normal and moral for Him to hate that which is contrary to His will and character. Then they add other valences of the verb: " God's hatred involves disgust and hostility towards sin, judgement, and punishment for the sinner. *Prov. 6:16-19* shows how representatives of mankind have become an abomination to the Lord, so He must hate them." (*TDNT* 1982, 686).

The authors note that God can hate and hate the wrong and disgusting things of man, and hatred for Him can mean, according to Biblical texts, disgust and hostility. His Holy nature cannot bear evil, sin, and for Him, the normal reaction is hatred of them, hatred with different valences depending on gravity. To God, hatred can also mean a lack of love for a person or a habit. For Him, hatred also means rejection of evil and falsehood, not being an emotion, as follows: " When in the righteousness of the *Old Covenant* evil is hated, this is not primarily an emotion, an experience of the soul; it is rather a passionate disappointment or evil in person, which God Himself has rejected " (*TDNT* 1982, 687). The same situation is transmitted from God to the faithful and wise man. What God rejects also rejects the wise man, although his perception cannot and must not be different from that of God's: "In his hatred, the wise man is on the side of divine judgement. In this holy and passionate rejection lies the distinction, the religious difference of the biblical ethos. Μισει τον εαυτου ψυκειν hatred has the meaning of rejection and denotes man's aversion to something that seems wonderful but false to him" (*TDNT* 1982, 687).

If God declares that He hates deeds, or people, or habits depending on the context, it can be interpreted as a clear rejection of God. The same nuance of the word hate is noticed by E. Riggenschach, who emphasizes the additional idea that love is in opposition to hate, both having positive values, even moral, if used correctly. Love for all that is good and hatred for all that is wrong and contrary to God's will: " God cannot love moral evil, but only hatred... There is no true love without anger; for anger is the reverse of love. God could not truly love good without hating and rejecting evil." (Riggenschach 1985, 16).

In the author's view, God cannot but hate evil, which is utterly contrary to His nature. The equivalent of hatred for Him is rejection. In the *New Testament*, the studied verb has several nuances, as the authors of the dictionary point out by the definition they give: " The wickedness (aversion) between people. The only μισεω appears in the *New Testament* (not μισος or μισετος μισετον ποιειν). Here, as in LXX (*Septuaginta*), it has different shades. The first denotes the personal aversion of man against man, without religious connotations." (*TDNT* 1982, 690).

In His teachings, the Lord Jesus came with the requirement of love (Rotaru 2010a, 465:7), referring to the relationship between people, when he contrasts hatred with love. Love becomes imperative for the disciple of Christ (Rotaru 2010b, 467:7), including in the relationship with the enemy, which makes it an ideological boundary between the requirements of the old covenant and the period initiated by the Lord: "Jesus places in His disciples the obligation to love all people but also enemies. He does not know hatred against people. It thus brings to light a problem debated in the *Old Testament* and especially in Judaism." (*TDNT* 1982, 690). However, the authors acknowledge that hatred can take on certain nuances, such as " to despise" and " to favour against", both of which have their roots in Biblical Judaism: "The antonyms αγαπαν / μισειν take on a special nuance in Matt. 6,24 and Luke 16,13, where, in connection with Deut. 21,15-17, they mean to prefer ("to be faithful") and "to despise" ("to disregard"). We have here a Judaism as a request for discipleship (Matt. 10:37: ο φιλων υπερ εμε, Luke 14,26: και ου μισει/)" (*TDNT* 1982, 690).

A valence that the Lord gives to hatred is contempt or disregard and preference to the detriment of another. As noted, the authors link the Lord's remark to ideas found in the Pentateuch. More specifically in defining one of the valences of the word hatred is recorded in the following passage: "Those who will become disciples of Jesus must be devoted, entrusted exclusively to Him; they cannot be attached to anyone else and anything. The term "hate" requires the separation of disciples and the warning not to love anyone and anything more." (TDNT 1982, 691).

If one wanted an idea synonymous with the word "hate" in the verse studied (Luke 14:25), without a doubt, the expression "not to love more" would be the one that would fit best; so this is another valence of the verb "to hate." The idea of divine hatred, or hatred as a divine requirement, is also repeated in the commentaries on the *New Testament*. In essence, God's hatred falls within the same semantic limits, namely hatred as differentiation and denial of evil, including judgement and punishment that belong exclusively to His attribute as Lord of all creation. There is a connection between the idea of hatred in the *Old Testament* and that of the *New Testament*: "The idea of willful divine hatred reminds us of the *Old Testament*. Jer. 9:13 and Mal. 1:2 is quoted in connection with the doctrine of choice: "I loved Jacob and hated Esau." Μισεῖν (hatred) of God belongs to the context of His service as Lord and Judge (TDNT 1982, 691). Although the Lord Jesus is the Lord of love, He also knows the feeling of hatred that is shared by His Church: "Revelations 2:6 refers to the hatred of Jesus and the Church of Ephesus: together they hate the work of the Nicolaitans. Hate here has a sense of differentiation and denial, punishment and judgement. In the name of the Lord, the Church rejects temptation. Jesus Christ recognizes justice and rejects iniquity" (TDNT 1982, 691).

It is well known that in his writings, the evangelist John uses fewer words compared to other *New Testament* authors: "We are reminded by the John concept that *misei/n* has an absolute meaning, not being the link of a chain" (TDNT 1982, 692). But for him, the words have a stronger load and are used without shades, but only in white or black without at least a shade of grey. For John, hatred is murder, and love is total and sacrificial attachment: "The contrast of ἀγαπᾶν–μισεῖν reaches its peak in John's thinking. The divine movement of love (ἀγαπᾶ) here also comes into conflict with the movement of cosmic hatred (μισοσ). Both are so unique and vast that they reveal the nature of God and the world" (TDNT 1982, 692). The values of God must also be the values of the disciples and the whole Church. What God hates must be hated by the Church, and what He loves must be loved by the Church: "In the hatred of the world for God, for Christ, for the disciples, and the Church, is true sin and murder. Light is here differentiated from the darkness. To hate means to live in the opposition to light, to reject it and to avoid its influence" (TDNT 1982, 691).

The semantic value of the word "hate" for John is murder, in this sense, John uses as an example of hatred of Cain, who changed from envy to murder. Another value of the word "hate" is very well underlined by the authors of the dictionary: "According to A. Plummer and J. Lagrange, the idea that "to hate" means to look like an enemy of the cause of God" (TDNT 1982, 691). This indicates an identification with God's values and man has a choice:

(1) To think like God, in the sense of assuming His values by knowing His will, which implicitly leads to the repudiation of anything that is not part of eternal values. Here hatred is also deepened in the sense of reforming the mentality.

(2) In the apostle of the Gentiles, Paul, is highlighted another valence of hatred that no other Biblical author has raised, namely that of rejecting the ego: "In describing the human situation of man under the Law in Romans 7:15. We find the statement, "For I do not understand what I do, for I do not do what I want, but do what I hate." Θελειν and μισεῖν here correspond. It is probably no coincidence that *misei/n* here means the rejection of the ego. According to the Law, man is led not only to discomfort but also to hate and rejection (μισειν)" (TDNT 1982, 692).

(3) In the *New Testament*, hatred also appears as a political antipathy: "The use of the $\mu\iota\sigma\epsilon\iota\nu$ is more than secular in Luke 19:14 and Rev. 17:16, where it means political antipathy" (TDNT 1982, 692). The apostle Judas is the author who distinguishes between hatred against man and hatred only for the wrong, natural (carnal) deed that must be repudiated, but the perpetrator must be won: "The conclusion of the idea in Jude 23 has a strange ring: "... show mercy to others, but with fear, hating even the tunic stained with threads " (regarding the deeds of sinful nature - na) "(TDNT, 1982, 692).

Finally, the authors define the value of the word hate, which is best known and used, namely resentment towards a person and the desire to harm him, hate that is forbidden. The authors begin their argument by mentioning the interdiction imposed by the Lord and taken over by the apostles, who in turn transmitted it as a divine imperative: "Jesus forbade the disciples to hate. The proclamation of the apostolic manifestation presents hatred between brothers and hatred between men (1 John 2:9-11, 3:14, 4:20, Titus 3:3) as captivity in the darkness of the old age. Therefore, in the connections between people, whether general, national or religious, it is attacked from the root" (TDNT, 1982, 693). Also, hatred in the *New Testament* is recalled, but as a rejection of an act, usually, but not against man: "The *New Testament* also teaches us a holy rejection and repudiation of injustice, but this is directly against the thing and not the person. No challenge is offered to the supremacy of the law of love" (TDNT, 1982, 693).

At the same time, it is recognized that hatred, in its aggravating form, is forbidden, but that there are other valences of hatred, namely rejection. In this sense, it is worth mentioning the semantic meanings of the verb "to hate", according to the dictionary: "to hate, I hate, - to have a strong feeling of antipathy or enmity against someone or something; not being able to stand someone or something. To ruin a friendship with someone, to quarrel, to break it with someone; to get bored of someone, to get tired of something, to no longer feel any pleasure for someone or for something" (<https://dexonline.ro/definition>). According to the dictionary, "to hate" can be equivalent to a strong feeling of antipathy or enmity, not being able to bear someone, getting bored of someone, something, not feeling any pleasure for someone or something.

In another dictionary there is also one of the meanings of the verb which is its semantic extreme: "1. A strong, uncontrollable feeling that causes someone to want or hurt someone; 2. strong aversion to something" (Universal Illustrated Dictionary of the Romanian Language, 22). Here hatred is defined as the desire or even the act of harming someone.

Conclusion

In conclusion, the hatred that Jesus speaks of is just a correct set of moral values and priorities in life. Christ, through His requirements, asked His followers to love unconditionally all people, including enemies, to the point of self-sacrifice for the benefit of others. The hatred in the Gospel of Luke is just the right prioritization of the moral values of life.

References

- Bible. 2010. NTR. Belfast: Biblica Europe.
- Dexonline.ro. 2021. "Hate (Ura)." Available at <https://dexonline.ro/definitie/ura>
- Nouveau Testament, Interlineaire Grec/Francais. 1993. Villiers-le Bel: Societe biblique francaise.
- Riggenbach, E. 1985. *Das Geheimnis des Kreuzes Christi*, Stuttgart und Basel.
- Rotaru, Ioan-Gheorghe, 2010a. "Nemărginita iubire a lui Dumnezeu" ("The boundless love of God"), *Argeşul ortodox (The Orthodox Argeş)*, IX, No. 465.
- Rotaru, Ioan-Gheorghe. 2010b. "Precum Eu v-am iubit pe voi, să vă iubiți unul pe altul!" ("As I have loved you, that you love one another"), *Argeşul ortodox (The Orthodox Argeş)*, IX, No. 467.
- Theological Dictionary of The New Testament (TDNT)*. 1982. Edit by Gerhard Kittel, vol. III, Michigan: Grand Rapids.
- Universal illustrated dictionary of the Romanian language*. 2011. International Letter, v.12, Bucharest.

Short Film's Global Role to Survey the Present and Influence the Future *SDG's* by Tackling the Crucial Complications that Facing Humanity

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ABSTRACT: Digital technologies have revolutionized the normal practices in various industries. The short films industry has equally experienced innumerable changes since its first inception in 1910. The industry has seen changes ranging from noble changes from creative processes, ideas or script writing, and featuring and characterization. This paper sets out to assess the historical development of short films from the early 19th Century until the present age, and the future prospects in the film industry. With new ways of sharing the short films varying from social media platforms, direct media, theatres and live performances, filmmakers have multiple opportunities to craft and showcase their talents in short films. Besides, short films strongly influence society as they impact the audience's future interactions and thinking patterns, especially using the themes or content relayed in the short films. Therefore, short films play a great role in shaping society's morals and people's behaviors. Recently, short films were explored to showcase the United Nations' universal goals to promote social cohesion among the global population. The paper concludes by analyzing the challenges and future potential of the short films industry, especially educating and entertaining the masses.

KEYWORDS: short films, global awareness, UN *SDG's*, future, humanity

Introduction

Short films are motion pictures that often display over a shorter time period than the actual feature films normally forty minutes or less inclusive of the credits. In the ancient ages, the consumers of short films did not realize the short time frames as they were emotionally consumed by the seconds-long performances, scenes of exotic cities, aesthetically appealing backgrounds and scantily dressed people going about their normal lives (Cooper & Dancyger 2012). With the new technologies in the 20th century, short films began to be lengthened beyond forty minutes to create room for more creative ideas and clearer thematic presentations. The films were mainly filmed at local, national and international film festivals, but with the new approaches in the digital revolution, short films began to gain popularity on other platforms. The short films were also a reserve for independent filmmakers running on low or no budgets, but with the new age of technology, other producers joined the creative market with better film productions. Short films represent a monumental development in the entertainment industry, with a diverse presentation varying from live-actions, computer coded or animated productions.

Discussion

Short film producers or content creators receive production funding from sponsors, film grants, not-for-profit organizations or personal investments. The main aim of this art genre is to entertain, educate and inform the masses, thus the producers are open to showcase their talents in multiple ways. The uniqueness of a particular short film may attract donors, private investors, production companies or film studios for future productions. As a result, the short films have gained enormous liking from governments, individuals or corporate firms as they aid in passing important messages. Initially, the short films would disappear immediately after they were aired at

the cinemas. However, the new endorsements resulted in better means of film archival, thus, the films can be found in different genres such as documentaries or fictions standing out in the present day (Briceno 2019).

Short films were originally simple, but they have evolved into new genres with more controversial themes and obscure topics over time. The most popular themes in the modern-day short films include social, cultural or political aspects, with the aim of advocacy or creating awareness of the thematic matters. The short film industry has significantly constricted down to be a call in the film and entertainment production, although its unique features still stand out. Some researchers have raised concern on the lasting impression created by short films. Some argue that short films have a lasting impact on the audience though some disagree with the assumption. The most popular response for this concern is that the longevity or powerful impact left on the audience depends on producers or director's ability to calibrate the content presented to the needs of the audience (Chapman 2013). Often, relatable content such as abortion, gender-based violence or euthanasia may have a more permanent impact than comical films.

Short films have the potential to enhance the audience's knowledge. Short films are based on good storytelling, thus for effective communication and better engagement with the audience, producers should conduct thorough background studies beforehand (Puspawati 2021). Directors, on the other hand, should be keen when assigning roles to the characters to ensure that the actual presentation and theme tally with the initial intent of airing the short film. Moreover, maintaining a healthy balance between the themes, main ideas, characters outplay, and filming stage is critical to attract and maintain the interests of the audience throughout the viewership. It is also important to maintain the balance to keep their audience informed, entertained and satisfied for future viewership. Moreover, technological advancements have also enhanced the process of film-editing using unique software, to increase the audience's engagement and plausible interest in certain genres. Digital technologies have also provided equal platforms for online release to reach wider market coverage than the ancient periods, thereby increasing the film's popularity in a shorter span of time.

Short films have received remarkable attention in the recent past. As people get busier with business, careers, studies and personal development, short films have received more attention as people's attention continues to reduce. With the short films, audiences are able to connect quickly to enjoy fiction and imaginative genres yet thriving in the fast-paced societies. According to Chapman (2013), short films are more plausible and attractive to the audience due to their precise nature and ease to follow through the entire plot. The modern-day society members have a higher preference for short-length films or entertainment genres due to their busy lives. Moreover, short films are attractive to filmmakers as it allows them opportunities to employ unlimited resources or new materials to tap into the emerging film markets (Sundquist 2010). For instance, documentaries are forms of short films and they help the audience to enjoy a wide pool of content, different thematic presentations and characterization on pertinent aspects. The short documentaries thereby play a great role in enriching the audiences' knowledgebase and stimulating change by creating awareness on global issues such as climate change. Also, the short documentaries aid in children's learning through visual class presentations. Some people use short documentary films to promote local or regional comedy, and sketches to exchange entertainment insights among the creators or promote.

The United Nations advanced seventeen sustainable development goals with the aim of improving people's wellbeing and transforming the world. The goals encompass; Gender equality, good health and wellbeing, decent work and economic growth, zero hunger, affordable and clean energy, clean water and sanitation, life below water, life on land, no poverty, quality education, sustainable cities and communities, reduced inequality, responsible production and consumption climate action, innovation and infrastructure, peace and justice, partnerships and stronger organizations to achieve the goals (Lu et al. 2015).

These goals can be articulated and actualized in the short films before being reflected in the societies. This can be through showcasing stories in short films that display united people or organizations working towards the common goals of development and sustainability. During the action festival event in North Lawn- the UN Headquarters, filmmakers submitted dissimilar short films in a global contest showcasing the interplay of the seventeen sustainable development goals. In all the films, producers managed to exemplify their talents and robust understanding of the universal goals. The short films were interactive, transformative and educative for the global populations to emulate and work towards implementing each of the aspects. The films also depicted the great role of digital technologies in transforming the short film industry and the future potential of films to rally alongside the universal goals (East & White 2016). The short films also educated the masses on the unique ways to resolve the global economic and social issues, and how to pull together with relevant forces to achieve the goals laid out in the sustainable development plan.

Short films are a lucrative phenomenon with innumerable benefits to societies. Short films allow the content creators to express their innate emotions and feelings in unique ways. They also allow people to learn important aspects on artwork, creative expressions and effective means of communications to different target audience. Short films also encourage people to try new ventures and be discovered in the global marketplace. In 2013, the Sundance Film Festival received a massive turnout averaging to about 8,161 short film makers which was significant increase, and the numbers were bound to continue rising with the new technical developments (Mousley & Firlot 2016). Additionally, short films have attracted the sales and marketing units as they represent an efficient way of marketing products in new or untapped markets. Other merits of the short films industry are that it helps in discovering and marketing new talents from amateur filmmakers. For instance, in the BFI film festival, millions of filmmakers are gathered to showcase their talents and gain insights from other filmmakers to enhance their creativity during content creation. Some innovative and promising filmmakers may also benefit from financial aids or partnerships during the film festival events, which is an efficient way to address the economic unemployment or other social evils especially among the youths. Besides, the content developed or showcased in the short films can be a reflection of the complex issues facing most people in the society, thereby be an efficient means to reach the relevant powers for immediate action.

Future Aspects

Despite the great successes and innovations associated with the short film industry, the industry continues to sink with untold challenges. The most common issues incorporate poor quality of short films where it reflects majorly attributable to financial limitations and inadequate come across among most of the short filmmakers (Briceno 2019). Secondly, the short films industry is flooded with amateur filmmakers popping up the social world with the content, which makes it difficult for most of them to be noticed or appreciated for their tireless efforts. Additionally, the veteran filmmakers may impose high costs or unfair recruitment criteria to develop the upcoming filmmakers which may scare away the amateurs or inflict fears of rejection among them. Some filmmakers have associated anxiety of losing prestigious endorsements from mega companies, this also increases the tension in the industry causing unfair practices in the industry. Lastly, filmmakers also face the challenge of remaining relevant or consistent over time with the content, scripting or presentation process (Irving & Rea 2012). The world is constantly evolving with new customer tastes, preferences and consumption patterns, thus remaining creative with unique short films for the new generations, global issues and concepts is quite challenging.

Conclusion

Globalization has significantly fast-tracked the expansion of the short-film industry. Short films have evolved into new and interesting phases which entertain, educate, inform and reward the

filmmakers and the general public. The industry has also promoted a great decline in social issues such as unemployment among the youths, thereby increasing the gross domestic product (GDP) of the said economic markets. However, the efforts of filmmakers may be shuttered by the wide range of challenges in the industry, including poor quality films, lack of funding, stiff competition among filmmakers and unclear channels to engage the audiences.

The most effective way to boost the productivity and continuity of short films is through providing equitable funding to the filmmakers. From the article, the benefits of short films are well tabulated, thus I would recommend that governments, private institutions and international should avail a kitty to boost the training, equipment and production of short films. There should be a responsible executive arm to cater for the needs of short films just like sports. This will allow the filmmakers to enjoy their efforts and grow in multiple ways to impact the societies with knowledge or entertainment.

As sustainable development goals become more widely implemented on the international scale, there emerges a growing role for films in manifesting the different experiences, challenges and outcomes involved in the process. Most importantly, as the challenges themselves facing mankind today evolve in their nature and required remedies, films, must readily adapt with this transformation. **Films, which have always served to tell the story and struggles of man, must continue to illustrate this narration truthfully, picking on the scars that not only live in our minds but also in the physical world we live in.**

References

- Briceno V., Gabriela. 2019. *Short film*. Recovered on 29 April, 2021, de Euston96.
- Chapman, J. 2013. *Cinemas of the World: Film and Society from 1895 to the Present*. Reaktion Books.
- East, M., & White, R. M. 2016. Reflecting on the emergence of the UN sustainable development goals: A call for action in Scotland. *Report for Scottish Government and COSLA*, 55.
- Falicov, T. L. 2016. The “Festival Film”: Film festival funds as cultural intermediaries. In *Film Festivals* (pp. 227-247). Routledge.
- Hassink, R., & Lee, Y. S. 2018. “Exploring international film festivals from a co-evolutionary perspective: the cases of Berlin and Busan compared.” *European Planning Studies* 26(5): 933-949.
- Irving, D. K., & Rea, P. W. 2012. *Producing and directing the short film and video*. Routledge.
- Kasimova, N. S. 2019. “Formation of short films in Uzbekistan.” *Theoretical & Applied Science* (9): 28-31
- Lu, Y., Nakicenovic, N., Visbeck, M., & Stevance, A. S. 2015. “Policy: Five priorities for the UN sustainable development goals.” *Nature News* 520(7548): 432.
- Marino, E. 2012. “The long history of environmental migration: Assessing vulnerability construction and obstacles to successful relocation in Shishmaref, Alaska.” *Global environmental change* 22(2): 374-381.
- Mousley, S., & Frilot, S. 2016. “New frontier at Sundance Film Festival: 10 years of changing boundaries.” *Leonardo* 49(2): 109-112.
- Perumal, V., Hassan, H. Z., & Bolong, J. 2011. “A review on the development, challenges, and contributions of independent film activities in Malaysia film industry.” *International Journal of Interdisciplinary Social Sciences* 6(4):109-118.
- Puspawati, N. W. N., Suwastini, N. K. A., Hutapea, J. V., Dantes, G. R., & Adnyani, N. L. P. S. 2021. “Consumption and production of short film: toward the conceptualization of multimodal language learning for developing 6Cs skills in the digital age.” In *Journal of Physics: Conference Series* (Vol. 1810, No. 1, p. 012054). IOP Publishing.
- Sundquist, J. 2010. “The long and the short of it: the use of short films in the German classroom.” *Die Unterrichtspraxis/Teaching German* 43(2): 123-132.

Some Aspects Regarding the Tactics of Hearing Witnesses

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ABSTRACT: In this paper, we have analyzed aspects related to the tactical activity of hearing witnesses, more precisely, what their statement represents, its importance in the conduct of criminal proceedings, and how listening to the various categories of witnesses. Also presented are the activities that take place in the preparation phase of the hearing of witnesses, the tactical conduct in the stage of identifying witnesses, and the free reporting of the witness.

KEYWORDS: witness, hearing, tactical conduct, judicial body, tactical methods

Introduction

As a means of proof, the testimony of witnesses has been known since ancient times and may be considered the first means of evidence used in judicial probation because, in those times, those who were literate were few. For this reason, naturally, the main means of proof admitted, as a rule, when the parties could not obtain written evidence were witnesses.

The reports made by the witnesses to the criminal investigation or trial bodies have received different names: testimonies, testimonial evidence, witness testimony, witness statements etc. (Mărgărit 2017, 2619).

The process of forming witness statements involves a moment of acquiring the information limited to the crime or its perpetrator, when the witness through the media perceives circumstances related to the act, a moment of preserving in memory the information perceived and a moment of communication these details to the judicial bodies by way of reproduction or recognition (Măgureanu 2004, 193).

Testimony or testimonial evidence, as is well known, is one of the oldest means of probation and among the most used in the judicial process, in general and the criminal process in particular. Listening, as a witness, to the person who has knowledge about a certain fact or circumstance, in connection with the criminal case, respectively the information obtained through testimony is likely to serve to find out the truth (Mărgărit 2017, 2620).

The hearing of witnesses requires prior training in both simple and complex cases. This training helps the criminal investigation body that carries out the hearing to obtain a more valuable statement (Grofu 2019, 77).

Activities carried out in the preparation phase of the hearing of witnesses

In the preparation phase of the witness hearing, the following activities are usually performed:

a) Studying the case file

The study of the materials in the file is the first activity performed by the judicial body and has a significant role in achieving the objectives proposed by the hearing (Ionescu 2009, 12).

By examining the documents existing in the case file up to that point, it can be established: the nature of the act committed, the persons from among whom witnesses can be chosen, the conditions under which the act was committed, the possibilities of perception of the persons to be heard as witnesses, operating system used by the offender, the conditions necessary for the

conduct of the hearing, taking into account the age, health, education of the person heard, as well as his psychological profile.

b) The knowledge of the person to be heard is made before the meeting with him, but also at the time of the meeting. Before the meeting with the witness, the criminal investigation body, through investigations and records, establishes the identification data, the moral profile, the degree of kinship with the perpetrator, the training, the state of health of the witness (Grofu 2019, 78-79).

The witness is also evaluated in terms of the relationships and interests he has in question, corroborated with his emotional dispositions, due to the circumstances related to the case, which may determine bias or a certain insincerity reflected in statements (Pletea 2003, 171).

c) Preparation of the hearing plan

The plan of hearing the witness is drawn up by the criminal investigation body that is to carry out the hearing. Usually, such a plan is drawn up in complex, important, more difficult cases, but even in simple cases, by resorting to such plans, an incomplete hearing is avoided and implicitly the recall of the witness to hearings.

d) Establishing and arranging the place of the hearing

The place of hearing is, as a rule, the seat of the criminal investigation body. As the case may be, the witness can also be heard at his home, at work, at the crime scene, at the place of detention, in the case of detainees (Grofu 2019, 79-80).

If there are several witnesses, the choice of those to be heard will be made taking into account the quality of the data they have, their personality, objectivity and position on the case under investigation (Buzatu 2013, 120).

Tactical conduct in the witness identification stage

The stage of identifying the witness, which includes the taking of the oath, consists in his question about name, surname, nickname, date and place of birth, personal numerical code, name and surname of parents, citizenship, marital status, military status, education, profession or the occupation, place of work, domicile and address to which he wishes to be informed of the procedural documents, criminal record or if a criminal trial is against him, if he requests an interpreter if he does not speak or understand the Romanian language or not can express himself, as well as on any other data to establish his personal situation.

From this first stage, the judiciary is obliged to follow a few tactical rules, specific to the beginning of the hearing, necessary to create a psychological climate suitable for obtaining complete and sincere statements:

a) Receiving the witness in a correct, civilized manner, which must be present from the moment of waiting until the moment of the actual hearing;

b) Creating a sober listening environment, characterized by seriousness, free of stressors, which can distract the witness, such as, for example, the presence of strangers, objects, devices or installations that may arouse curiosity or fear;

c) The behavior of the judicial body in a calm, encouraging way, to reduce the tension, the natural anxiety of the witness. The attitude of coldness, defiance, arrogance is totally contraindicated, which can lead to inhibition of the witness or even to his determination to avoid complete statements, especially if he is sudden (Stancu 2015, 424-425).

Tactical conduct from the moment the witness is freely reported

At this stage of the free report, the witness will be informed of the subject matter of the case and will be shown the facts or circumstances for which he was proposed as a witness, being asked to state everything he knows about it (Buzatu 2013, 121).

Free or spontaneous reporting begins by asking a general question or general request that gives witnesses the opportunity to state everything they know about the facts or circumstances for which they have been asked to clarify.

There are numerous situations in which the witnesses in their free report highlight aspects hitherto unknown to the investigating body, important for the case, or elements likely to show other deeds committed by the defendants in the case in which they are heard. During the free report, the investigator has the opportunity to know the witness in the way he exposes what is perceived, the certainty with which he presents the facts and circumstances, hesitations, errors, returns on some aspects of the statements made, as well as the robustness of the arguments presented (Olteanu and Ruiu 2015, 228).

As in the case of the defendant, it is advisable that the witness be interrupted only when a departure from the subject is observed. Through the free report there is the possibility for the witness to reveal new aspects, unknown to the investigator and which may have escaped the witness in a first phase.

Recalling the events during the discussion, he reminds them, hence the emergence of new issues. New data will have to be considered with caution and verified with the help of existing ones (Ionescu 2007, 185). It is strictly forbidden to use violence, threats or other means of coercion, as well as promises or exhortations, in order to obtain evidence (Buzatu 2013, 122).

Tactical rules applied in the question formulation stage

This stage is not, at least in theory, mandatory. Whenever the free report has not fully clarified the facts and circumstances about which the witness was called to testify, the hearing will continue with questions regarding omitted, forgotten, hesitations or contradictions (Buzatu 2013, 122).

However, the judicial body is required to intervene with questions that may clarify the witness's accounts or verify them. This stage is also called *Witness Interrogation, Guided Reporting, Deposition-Interrogation* (Botez 2016, 204-205).

From the perspective of forensic tactics, the questions asked by the judiciary are divided into several categories:

- Supplementary questions, addressed in the event that the witness omitted certain aspects;
- Clarification questions, addressed on issues that were not clearly reported;
- Support questions, addressed in order to remove distortions such as substitutions or transformations;
- Control questions that allow the verification of statements in terms of accuracy and veracity.

In formulating and asking questions it is necessary to observe the following rules:

- The questions must be clear, precise and concise;
- The questions will strictly address the facts perceived by the witness;
- The questions will not contain intimidating elements;
- The way in which the questions are formed and the tone in which they are addressed should in no way suggest the answer.

The specific tactical rules for listening to the answers are essentially the following:

- Listening to the witness with all the attention and seriousness, avoiding the boredom, annoyance, expressions or gestures of approval or disapproval that may confuse the witness;
- When notifying any contradictions in the witness's answers, the judicial body must not react immediately, to express its surprise or dissatisfaction, but to register it for its subsequent qualification;
- Following carefully, but without ostentation, the way in which the witness reacts to questions, or if there are indications of possible insincerity (Buzatu 2013, 122-123).

If it is found that the witness tries to lie, related to the particularities of each case, the tactical procedures are different, some approaching those specific to the tactics of listening to the suspect, of course without exceeding the legal framework.

In these circumstances, the hearing will be repeated; questions will be reformulated and diversified, including confrontation with other witnesses or perpetrators, insisting on details that cannot be taken into account by those who “prepare” statement by agreement with the parties or other witnesses (Stancu 2015, 429).

If a witness finds it difficult to remember some data, he may recall it with reference questions without being suggested the answer.

The active role of the judiciary is manifested when it becomes necessary to complete, clarify or verify certain statements, especially if they are contradictory and insincere (Ciobanu and Stancu 2017, 114).

Tactical features applied in listening to minor witnesses and other categories of witnesses

Listening to minor witnesses

According to the provisions of article 124 of the Criminal Procedure Code, the hearing of a minor witness up to 14 years of age takes place in the presence of one of the parents, guardian or person or representative of the institution to which the minor is entrusted for upbringing and education it is considered necessary, upon request or ex officio, the criminal investigation body or the court to order a psychologist to attend the hearing of the minor witness.

In accordance with the provisions of article 124, paragraph (5) of the Criminal Procedure Code the minor witness who, at the time of the hearing, has not reached the age of 14 is not required to give statements in accordance with reality and the fact that the law punishes the crime of perjury, but is drawn to the truth.

From a forensic point of view, listening to the minor is particularized according to his age it is becoming more and more distant from listening to the adult, as the age is younger. Thus, unlike listening to a 16-year-old minor, who does not differ too much from listening to an adult, listening to a 6-year-old child is governed by different tactical rules.

Listening to a 6-year-old child must be done by a specialist in child psychology, in a place that is familiar to him, because only in this way is it possible to establish a psychological contract with him (Ciobanu and Stancu 2017, 116-117).

The psychic peculiarities that influence the relativity of the statements of minors and young children depend on age. In this regard, children can be conventionally divided into several age groups: pre-schoolers, elementary school age, and middle school age. Hearing middle-aged adolescents in high school differs little from hearing mature witnesses and defendants (Golunski 1961, 346).

Listening to the minor witness goes through the same main stages: preparation for the hearing, identification of the person, the actual listening, respectively, the free reality, followed by questions and answers (Ciobanu and Stancu 2017, 117).

Throughout the literature, forensics or forensic psychology, it is rightly emphasized that the veracity of the statements of a minor witness in good faith, as well as the assessment of their probative force cannot be conceived without knowing the psychological mechanisms underlying the formation of testimony (Suciu 1963, 577).

Listening to the elderly

Specialists say that after the age of 65 the aging process occurs, which intensifies after 70-75 years. In their case, there is a decrease in sensory reception and the appearance of depersonalization syndrome, accompanied by hysteria, frustration, selfishness, irascibility, desire for revenge, etc.

From a tactical point of view, listening to the elderly is close to that of minors but has a more complex character (Buzatu 2013, 125).

The statements must be well verified and critically interpreted, in the hypothesis of the existence of some small interests in question, which can be marked by the desire for revenge, resentment, even unjustified malice (Ciobanu and Stancu 2017,124).

Listening to people with disabilities

Listening to the deaf-mute is related to the level of mental development and intellectual training, some of these disabled, with all the difficulties of auditory perception and expression, being able to communicate without the help of interpreters, due to the training performed in specialized schools. As a result, the investigator has a duty to inquire in advance about these circumstances.

The actual listening is characterized by the fact that the free realization of the deaf-mute witness is much more difficult, the weight being held by the questions, very precise and clearly expressed. It goes without saying that the vote is aimed at the aspects that the witness perceived visually, although he can understand, and even very well, the content of a discussion after the movement of the lips. It is advisable to listen calmly and patiently, especially since deaf-mute people are often suspicious and irascible. The magistrate must be careful if the nervousness is natural or if it does not represent an attempt to simulate the deaf-mute, or a reaction to an inappropriate behavior to the disabled state (Stancu 2015, 435).

With regard to ***blind witnesses***, it is important to remember that they have a very developed sense of touch and a very high, special auditory acuity, which allows them to perceive sounds much better, to recognize people by voice and to realize what it happens around them, after the noises produced.

Therefore, the testimony of the blind can be taken without reservations, some aspects or episodes of a deed being able to receive them even better than a seer (Stancu 2015, 435).

Listening to people who do not know the Romanian language

People who do not know the Romanian language will be heard in the presence of an interpreter (Buzatu 2013, 125). A foreigner who does not know the Romanian language can be asked about the facts he witnessed, as well as about the facts he heard and had the opportunity to understand (Stancu 2017, 435).

From a tactical point of view, the area of origin, the degree of training, the particularities of the judicial system in the country of origin must be taken into account (Buzatu 2013, 125) even if it is without incidence with the case, but without any deviation from the rules or the principles of the Romanian criminal process (Ciobanu and Stancu 2017, 125).

Listening to people with mental disabilities

Listening to the disabled who present various psycho-pathological disorders takes place only if it is considered absolutely necessary, being prepared and performed with great caution, with the help of a specialist. The hearing is conducted in a setting free of stressors, by moving the judicial body to the home of the witness or his place of hospitalization.

We mentioned that making psychological contact and gaining the trust of the witness are essential for obtaining the expected result through the hearing. The tactical rules of listening are those applicable to them must be seriously verified and interpreted in a critical way (Ciobanu and Stancu 2017, 125-126).

Conclusions

From ancient times, the evidence with witnesses has been considered the first means of use in finding out the truth, having a special importance, because their statement can lead to solving the case. The whole action of forming these statements entails a series of information regarding the criminal act, at which point the witness tries to reproduce from memory what he perceived.

Starting from the definition of the notion of witness, according to article 97 of the Criminal Procedure Code, it represents the person who knows a fact or circumstance in connection with an act provided by criminal law and who should be brought to the attention of criminal prosecution bodies and courts, to find out the truth.

The judicial activity, in addition to the fact that it deals with the administration of testimonial evidence which consists in hearing the persons called to testify, must have sufficient knowledge regarding the tactics of listening to them.

The legislator stated that, in the hearing of witnesses, the use of violence is prohibited and, whatever their social situation, regardless of their age, religion or citizenship, they can be witnesses in criminal proceedings.

References

- Botez, D. 2016. *Audierea martorilor în procesul penal (Hearing witnesses in criminal proceedings)*. Bucharest: Universul Juridic Publishing House.
- Buzatu, N-E. 2013. *Criminalistică (Forensics)*. Bucharest: Pro Universitaria Publishing House.
- Ciobanu, P. and Stancu, E. 2017. *Criminalistică. Tactica criminalistică (Forensics. Forensic tactics)*. Bucharest: Universul Juridic Publishing House.
- Golunski, S.A. 1961. *Criminalistica (Forensics)*. Bucharest: Științifică Publishing House.
- Grofu, N. 2019. *Criminalistică. Tactică (Forensics. Forensic tactics)*. Bucharest: Didactică și Pedagogică Publishing House.
- Ionescu, Fl. 2009. *Criminalistică (Forensics)*. Vol. II. Bucharest: Universitară Publishing House.
- Ionescu, L. 2007. *Criminalistică (Forensics)*. Bucharest: Pro Universitaria Publishing House.
- Măgureanu, I. 2004. *Ascultarea persoanelor în procesul penal (Listening to people in criminal proceedings)*. Bucharest: Lumina Lex Publishing House.
- Mărgărit, N. 2017. *Reguli de tactică criminalistică privind ascultarea martorilor (Rules of forensic tactics regarding the hearing of witnesses)*. In *Revista Română de Criminalistică*.
- Olteanu, G.-I. and Ruiu, M. 2009. *Tactică criminalistică (Forensic tactics)*. Bucharest: AIT Laboratories Publishing House.
- Pletea, C. *Criminalistica. Elemente de anchetă penală (Forensic. Elements of criminal investigation)*. Bucharest: Little Star Publishing House.
- Stancu, E. 2017. *Tratat de Criminalistică (Treatise on Forensics)*. Bucharest: Universul Juridic Publishing House.
- Suciu, C. 1963. *Criminalistica (Forensics)*. Bucharest: Didactică și Pedagogică Publishing House.

The Analysis of Palestine Conflict and UN Role

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ABSTRACT: The world is shifting the paradigm of resolving conflicts. The countries are actively participating in resolving the issue and conflict prevailing globally. The platform of UN is considered among the main medium to resolve conflicts internationally. This article is an in-depth overview of past, present, and future perspectives of one of the long-existing conflicts of the world. The Palestine conflict is a matter of serious concern for East and West. A critical point arises that the Palestine-Israel conflict is a “three-fold test” for world peace. The conflict till the present has gone through many shifts from war to UN resolutions. This conflict is a question mark on the conflict resolution ability of UN. This article argues the test capacity of UN to bring both Palestine and Israel to an accord. The UN’s handling of the matter would have consequences for the organizations standing in the world.

KEYWORDS: Conflict, Palestine, Israel, UN, Resolution

Historical Overview of the Conflict

Background to the establishment of the Jewish state

The idea of the establishment of a Jewish state has been gaining ground among Jews over the centuries, and this idea has been particularly strengthened by four elements:

The specific conspiratorial temperament of the Jews

The specific conspiratorial temperament of the Jews is well-known. They cannot coexist in any society, and one of the main goals of establishing the well-known enlightened movement 'Haskala' was that they, contrary to this, create a spirit of coexistence in the society. However, this movement failed completely. Since the failure of this movement, such ideas were rapidly emerging among them that they have to form a separate state, where they can live in peace and contentment (Ayapbergen et al. 2020).

Modern National Ideology

Protestantism began to take root in Europe in the last centuries, especially in the nineteenth century, when governments based on national ideologies started to emerge, and Christian states began to strengthen. Since he had been using the slogan since the sixteenth century, he too seized the opportunity and, with great planning, began to make the idea a reality. Later, in 1897, the Zionist movement was launched for this purpose. This movement led to a very strong and very planned movement for the establishment of an Israeli state in Palestine on a global scale (Chomsky & Pappé 2015).

The conspiracy of the Western world

An important thing was also the conspiracy of the Western world’s conspiracy. The Western world was well aware of their conspiratorial temperament and their rhetoric against the governments, so it did not form a separate Jewish state. He not only paved the way, but also openly accepted the patronage of this state. The West thought that in this way, on the one hand, it would get rid of their actions, and on the other hand, it would be able to close the chapter of their ancient enmity with the Christian world by colliding with the Muslim world (Gil 1997).

Oppression of the Jewish Nation

Because of the Jews' own temperament and actions, no government could tolerate them for long. Their history shows that because of their temperament, they could be more peaceful anywhere. Not long after, Russia and other countries inflicted a lot of atrocities on them, and then the Holocaust drama not only made their oppression better known, but also the establishment of a separate Jewish state on a global scale. The way was also paved for (Chomsky & Pappé 2015).

Why chooses Palestine?

The Jews had more than one option for establishing the state of Israel, but they chose Palestine for it, and the United Kingdom gave its full support and all possible assistance. While it has a religious foundation, the construction of the Temple of Solomon according to religious teachings, there have been some dangerous political conspiracies in the Western world behind it. The West knows that if the Jews succeed in fulfilling their dream of a greater Israel, they can play a dangerous role in the politics of the Muslim world, where there will be a gap between African and Asian Muslim countries (Chomsky & Pappé 2015).

At the same time, they will continue to make the entire region a victim of their conspiracies. The fact is that since the establishment of the state of Israel, the entire Muslim world has been plagued by strange disturbances and troubles. It is a detailed topic of the dangerous effects of the establishment of the Jewish state on the politics of the Middle East or the Muslim world, but the fact remains that the state of Israel is currently playing a dangerous and influential role in the politics of the Muslim world (Gil 1997). Whether it is the overthrow of Egypt's elected democracy, the accusations of terrorism against the great Islamic movements of the Islamic world, and the mass arrests of their activists. The obstacles to the establishment of democratic and independent governments in the Islamic world. Whether it's the problem of keeping the governments of the Islamic world economically dependent on others, Israel is playing a significant role. According to Dr. Mohsen Saleh, "The situation now is that in order to strengthen Israel, it is necessary to weaken the surrounding Muslim countries, and the condition for the strength, awakening and unity of the Islamic world is that the world through Israel The Zionist plan imposed on Islam should be weakened." (Proofs and facts in the case of Palestine).

Some consider the issue of Palestine to be a religious issue for the Jews. Of course, there is a religious dimension to it. Yes, and it is based on an anti-Islamic political agenda, in which the Western world is using the Jews as a mere card (Chomsky & Pappé 2015).

The beginning of the Zionist movement and the role of the West

Zionist state

The ideology of the Zionist state came to the process during the First World War, because Britain needed Jewish capital to pay for the war. While the Jews wanted to form a separate state, the British did not want to offend the Arabs. Therefore, in the "Bosphorus Declaration" he assured the creation of a homeland for the Jews but did not clarify its nature. The land of Palestine was chosen for this Jewish kingdom (Glueck 1933).

The most in compassionate or compel circumstances are for the Palestinians who are occupied in-between Gaza and west Bank Strip or are outcast in camps across the area. The critical circumstance reveals the need of discovering useful strides for modifying fundamental resources of human regarding the Palestinian people (Gill 1997). During World War II, the map of this state became prominent and Jews from all over the world began to turn to Palestine. Their rapid arrival in Palestine will upset the Arabs and they strongly opposed it. But the influx of Jews continued because they had the support of Britain and the United States. However, when World

War II broke out in 1939, Jewish settlements were restricted to appease the Arabs. At that time, the Jewish-Arab population in Palestine was 3 to 10 percent (Gregory 2004).

In 1945, the Arabs planned to form the Arab League to end this new tribulation. During this time, an Anglo-American committee was set up to make recommendations on the future of Palestine. Since this was part of a plan to establish a Jewish state in Palestine, the Arabs boycott it. But after the war, a significant number of Jews had settled in Palestine. And Britain realized that now that it had withdrawn its troops from Palestine, the Jews could establish their own independent state. Therefore, he declared Palestine a failure to find a solution to the problem and handed over Palestine to the United Nations (Gil 1997).

While that law has never kept any state from keeping up its essential security rights during emergency, it gives a base restricting lawful structure as well as a space for suspecting and connecting basically on the human outcomes of security strategies (Karsh 2010). There were riots against the Jews from 1929 to 1933, but the British troops severely crushed these riots. Hitler's anti-Semitism led to a new wave of Jewish arrivals in Palestine, and in 1935 alone, 60,000 Jews arrived (Gil 1997).

During World War II, the Zionists cooperated with the British government and provided financial support to the Allies (Karsh 2010).

United Nation

After the war, the British presented the issue of Palestine to the United Nations on April 2, 1947. On May 15, a special UN committee was set up, which unanimously agreed that the British occupation of Palestine should end. The committee members could not agree on a future government. The majority proposed the establishment of an Arab government in the area below Central Palestine. The territories of Jerusalem and Bethlehem should be handed over to the United Nations and a Jewish state should be established in the area above these cities up to the Mediterranean (McCarthy 1990).

On November 29, 1947, the UN General Assembly adopted a proposal by a majority of the committee members. The assembly also set up a five-member commission to implement the plan. The commission was tasked with assisting in the formation of an interim government in consultation with Jewish and Arab groups.

Almost every component of Israel's control of the Palestinian Territories disregards an arrangement of the Fourth Geneva Convention. A significant number of Israel's infringement are grave breaks of the Convention and are considered 'Atrocities' under International Law (Pappe 2004). The Arabs rejected the UN plan, saying that establishing a Jewish state in the Arab region was offensive and resisted. The United Kingdom also announced that the plan would not be implemented by force. And the British government will take over the administration on May 15, 1948, ending the occupation. This period of about 6 months in Palestine was the time of confrontations. Guerrilla warfare between Arabs and Jews had begun. The UN commission had not even begun implementing the partition plan.

The last High Commissioner of Palestine, Sir Gordon, left Palestine on May 14, 1948, in the midst of chaos. And at 4 pm on the same day, Ben-Gurion unilaterally announced the establishment of the Jewish state of Israel at a meeting of the National Council of Jews and the General Zionist Council in Tel Aviv. David Ben-Gurion was appointed the first Prime Minister of the Provisional Government of Israel, and on May 16, 1948, the United States and, just a day later, Russia recognized the Jewish state (Quigley 2005).

Egypt, Jordan, Iraq, Syria and Lebanon invaded Israel to end the Jewish occupation of Palestine. Western powers were behind Israel, so the Arabs had to accept a ceasefire after eight months of fierce fighting. But he refused to acknowledge the existence of Israel. Count Bernardert, the UN mediator for Palestine, was killed by Jewish terrorists in Jerusalem during the eight-month war (Gil 1997). He was replaced by Ralph Beach, who could barely contain the fighting. However, the Jews managed to occupy much more territory (Said 1992).

The position of the United Nations

Britain's breach of this treaty led to a catastrophic event in November 1947, when the UN General Council, in its 181st resolution, divided Palestine into Arab and Jewish. There was so much open rigging that 54% of the country's territory was earmarked for the Jewish state, and only 45% for the Arab state, while the 1% for Quds was considered an international area (Gil 1997).

According to Dr. Mohsin Saleh, "This was not a mandatory decision in accordance with the principles of the United Nations itself, and secondly, this decision was in conflict with the principles of the United Nations. The basis of the United Nations is that freedom belongs to every country and every nation." It is a fundamental right, and the country and its people will decide this freedom. In addition, a major mistake was that the Palestinian people, who were a key part of the issue, were not consulted before the decision was made, nor was a referendum held in the country. They were later resettled here and given an important and large part of the land (Smith 2004, 320).

A Constant Conflict

Although the United Nations arranged a cease-fire between Israel and Arab countries in 1948, the region remained insecure. In anticipation for future confrontation, both sides increased their military capabilities. Meanwhile, many Palestinians have joined resistance organizations, outraged by the refugee crisis and their political and economic situation. A number of these organizations combined in 1964 to become the Palestinian Liberation Organization (PLO), which was quickly led by Yasser Arafat. Over the following three decades, Israel and its Arab neighbors went to war three times: in 1956, 1967, and 1973 (Glueck 1933).

The Sinai Peninsula, the Golan Heights, Gaza, the West Bank, and East Jerusalem were all captured and occupied by Israel during the 1967 Six-Day War. This occupation, which has lasted till now, is not permanent, according to international law. Not only was Israel several times larger than it had been in 1948, but it had also absorbed one million Palestinians. Furthermore, nearly 200,000 Palestinians were forced to flee their homes (mostly going to Jordan). Menachem Begin, the Israeli prime minister, began a push to construct Jewish colonies in the seized areas in 1977 (Gil1997).

Large numbers of Jewish settlers have flocked to East Jerusalem

The West Bank, and Gaza, even though the settlement strategy is divisive among Israelis and is illegal under international law. Palestinians have lost more land because of the settlements. Furthermore, the settlements have exacerbated conflict by creating armed settlers and Israeli forces within the occupied areas, as well as severely restricting Palestinian freedom of movement (as Israeli-only access routes and containment walls/checkpoints built to safeguard the settlements obstruct Palestinian movement). Often, Palestinian citizens are the victims of settler aggression, and Palestinian guerillas have retaliated by killing Israeli civilians (Gregory, 2004).

The war moved to Lebanon, where the Palestinian Liberation Organization (PLO) and the Israeli army both participated in the Lebanese Civil War. A vicious loop ensued: Israelis hampered Palestinians' political, economic, and travel capabilities, claiming security concerns, while Palestinians, outraged by Israeli treatment, expanded their resistance operations. The US sought to launch peace talks on a number of occasions, but its proclivity to sympathize with Israeli concerns hampered their efficacy (Gil 1997).

The Palestinians were in open revolt by late 1987, a spontaneous uprising that became known as the first "intifada" (Arabic for "resistance" or "shaking off"). Hundreds of thousands of Palestinians, especially teenagers, took part in civil disobedience (refusal to pay taxes, boycotts, and strikes) as well as throwing rocks at Israeli soldiers. Over 1,000 Palestinians were killed by the Israeli army, including hundreds of children under the age of 16. Israel's treatment of Palestinian civilians drew widespread condemnation both at home and internationally (Imseis 2020).

Similarly, Palestinian bombing assaults against Israeli citizens have persisted. Peace talks (see below) have taken place as a result of the suffering on both sides, but they have yielded only limited progress. Tensions and violence are still present today (Gil 1997).

Dividing Israelis and Palestinians on Important Issues

Security

Both sides are concerned about random attacks and acts of terrorism. Israelis dislike the fact that they can't stroll down the street without fear of anything – or someone – exploding next to them. Palestinians are angry that Israeli troops regularly abuse them, or that their homes and belongings are destroyed if a member of their family is suspected of attacking Israel — or if Israel wants the land for colonies, roads, or containment walls. Israelis argue that having soldiers on the ground and employing severe methods is vital to keep their citizens safe; Palestinians argue that such actions are what motivate them to attack Israel (Chomsky & Pappé 2015).

The Palestinians' main concerns

Since they believe that all refugees and their ancestors should have the right to return to their homeland. Many of them have spent decades (some even more than 60 years!) in refugee camps with deplorable living conditions. The challenge for Israelis is that there are now 4 million descendants of the original refugees due to a high Palestinian birthrate (Gil 1997).

Jerusalem control

Jews (original religious center), Christians (place of Jesus' ministry and crucifixion), and Muslims all revere this city (site from which the Prophet Muhammad is believed to have ascended into heaven). The issue is who should be in charge of it, and how should that power be distributed?

Israeli forces are located on Palestinian territory

Israelis claim that their forces are needed to maintain security; Palestinians claim that Israeli forces harass or even assault civilians. Palestinians want their own military to be in command of their own territory. For Israelis, the question is whether Palestinian forces can manage their own radical elements (Gil 1997).

Settlements by Israel on Palestinian territory

Thousands of Jewish settlers have poured into the Gaza Strip and the West Bank since the 1967 conflict, arguing that Israel has a Biblical right to the area. Palestinians despise settlers for annexing Palestinian territory, inciting violence against Palestinians, and prompting the deployment of Israeli military as well as the construction of walls and checkpoints. Many moderate Israelis agree, seeing the settlements as a roadblock to peace, but they confront a huge task in closing the settlements without sparking hostility from the local Jewish population (Chomsky, & Pappé 2015).

Humans and commodities movement in the Gaza and the West bank: Checkpoints, barriers, special highways, and other limitations on the mobility of Arab residents are necessary for Israeli security, according to Israelis. Such limitations, on the other hand, significantly harm the Palestinian economy by restricting trade and job prospects, as well as making it impossible for farmers to access their fields.

Palestinians' access to health care, schooling, and family/friends in other cities is likewise restricted. The peace process would have to strike a compromise between Israel's security needs and the Palestinians' desire for greater independence and economic prosperity (Irfan 2020).

The water element

Water is in short supply in the area, and Israel controls it both within Israel and in the Occupied Palestinian Territories. Palestinians are angry that Israeli settlements in the West Bank are permitted to consume six times the quantity of water that Palestinians are permitted to use. Environmentalists are concerned that the Dead Sea's environment may be jeopardized by water diversion (Irfan 2020).

Hateful propaganda and language

Both Palestinians and Jews are divided between moderates and radicals, with both seeing the other as less than human. On the surface, the issue of words appears to be less urgent than that of hostile armies, suicide bombers, or refugees. In truth, fanatics on both sides foment underlying fear and hostility, making it harder to create the mutual respect required for compromise (Imseis 2020).

The Peace Efforts

There have been attempts to reach a peaceful resolution as the violence took a toll on both sides. Israeli Prime Minister Menachem Begin and Egyptian President Anwar Sadat signed a peace accord in September 1978 during a summit at Camp David hosted by American President Jimmy Carter, which resulted in Israel's departure from Sinai. Even though Israel and Egypt had begun discussions, internal Israeli disputes were growing.

Only in 1991 did direct discussions between Palestinian and Israeli authorities begin. A series of discussions between the Israeli government, individual Arab governments, and the PLO were held in Madrid, Spain, under the pressure of the US and the Soviet Union. Some Israeli and Palestinian officials, on the other hand, wanted a less visible and highly heated setting and met in private in Norway (Imseis 2020).

Oslo Accords

In 1993, Israeli Prime Minister Yitzhak Rabin and Palestinian Authority Chairman Yasser Arafat signed the Oslo Accords. According to the Oslo Accords, Israel would withdraw its soldiers from Gaza and the West Bank town of Jericho, while the Palestinians would be given more authority. Palestinians will be able to elect a Self-Government Authority in these territories in the future. In exchange, the PLO decided to recognize Israel, a step that Israelis considered crucial to their security. Under Arafat's leadership, the Palestinian Authority was founded in 1994, and Jordan had joined Egypt in recognizing Israel (Pappe 2004).

Many of the important issues that now separate the two peoples were not addressed in the Oslo Accords, according to critics. Unfortunately, these concerns were never resolved, and both parties broke their agreements. In response to Israel's expanded settlements on Palestinian land, Palestinians upped their attacks against settlers. Extremism on both sides contributed to the conflict's subsequent escalation. In early 1994, an Israeli terrorist killed 30 Muslim worshippers in a mosque in Hebron, prompting a wave of suicide attacks by Palestinian terrorists (Quigley 2005).

The peace effort was immediately derailed. The hardship of both parties prompted more attempts at dialogue in 2000. Ehud Barak, the Israeli prime minister, and Yasser Arafat, the Palestinian leader, met in Camp David to try to find a settlement to the war. However, it quickly became clear that the underlying concerns that divide the two peoples are impossible to reconcile (Said 1992).

The peace process remains deadlocked to this day since no formal agreement was achieved. The last ten years have brought with them a new level of uncertainty. Yasser Arafat died in November 2004, and the more militant Hamas group was elected to senior posts in the Palestinian Authority little over a year later (in January 2006).

Israel has also adopted a more belligerent stance: an Israeli invasion of Lebanon in summer 2006, as well as assault on Palestinians there, drew international condemnation. In addition, Israeli colonization of the West Bank and East Jerusalem has grown, resulting in the confiscation of Palestinian land for settlements, the construction of barriers and restricted-access highways, and the seizure of water and other resources. Gaza became a focal point of the Israeli-Palestinian conflict between 2008 and 2012, resulting in Israeli assault on the territory and Palestinian assaults on Israeli people.

Unemployment is at an all-time high in Gaza, and the standard of life has plunged. On and off the conflict and breach of law has been gone through since the previous years, which was been observed by the international community (Karsh 2010).

Recent clash

Protests and rioting, police riot control, rocket launches on Israel by Hamas and Palestinian Islamic Jihad, and Israeli airstrikes targeting the Gaza Strip characterized a flare-up of the Israeli–Palestinian conflict in May 2021, which was interrupted by a truce on May 21. On the 6th of May, Palestinians demonstrated in East Jerusalem over the Supreme Court of Israel's expected verdict on the eviction of six Palestinian families from Sheikh Jarrah.

Under international law, the territory, which Israel has essentially annexed, is part of the Palestinian territories that Israel now occupies. The demonstrations swiftly devolved into violent clashes between Jewish and Palestinian demonstrators. On May 7, Israeli forces attacked the al-Aqsa Mosque, Islam's third holiest site, which is located on the Temple Mount, Judaism's holiest place. Stone-throwing Palestinians were met with tear gas, rubber bullets, and stun grenades by police. As a result of the conflict in Israel, Palestinian rockets have murdered 12 people, including one kid (Imseis 2021).

The Israel Defense Forces announced on May 11 that at least 15 of the Palestinians killed were verified Hamas members, as well as that other Palestinian civilians were killed by errant rocket fire within the Gaza Strip (Imseis 2021).

The Palestinian National Authority claimed at least 1,900 Palestinians injured as of May 20, 2021, while Israel claimed at least 200 Israelis injured as of May 12, 2021. At least 72,000 Palestinians had been displaced as of May 19th.

Hamas originally requested a truce on May 13th, but Israeli Prime Minister Benjamin Netanyahu rejected it. On the 18th of May, France, Egypt, and Jordan stated that they had filed a UN Security Council resolution calling for a ceasefire. On May 21, 2021, Israel and Hamas agreed to a truce, following 11 days of war in which both sides claimed victory.

As a result, the peace process has repeatedly stagnated. Despite this, all sides – as well as foreign parties – have sought new conversations on several occasions, demonstrating considerable unhappiness with the existing situation (Imseis 2021).

Solutions to Consider

The Palestinian-Israeli conflict may be solved in two ways. Either option would necessitate significant concessions on both sides. The "one-state solution" would see Israel's land and the Palestinian territories it now controls merged into a single entity. For Israelis, the issue is that the country would no longer be a Jewish state, but rather one with an equal proportion of Palestinian Christians and Muslims. The issue for Palestinians would be ensuring that they had full citizenship rights (McCarthy 1990).

The "two-state solution" would see Israel and Palestine coexisting (comprised of the West Bank and Gaza). Either a partitioning of Jerusalem, shared Israeli-Palestinian rule of the city, or acknowledgement of Jerusalem as an open, international city would be part of this solution. Both parties would have to give up their ambitions to govern the whole region under

a two-state solution. Israel would have to relinquish sovereignty of the occupied territories and remove all of its inhabitants from regions it has conquered since 1967 (Said 1992).

Either option would really be difficult to implement since it would need good leadership from the international community, Israelis, and Palestinians. However, as international crises and human rights violations worsen, failing to find a solution is becoming less of an option. A just and equitable resolution to the dispute would be extremely beneficial to worldwide peace and stability (Irfan 2020).

References

- Ayapbergen, A., Makhambetova, M., Merekekizy, S., & Nurgalieva, A. M. 2020. Arab State in Palestine. History and Current Situation. In *Лучшая студенческая статья 2020* (pp. 78-83).
- Chomsky, N., & Pappé, I. (2015). *On Palestine*. Haymarket Books.
- Gil, M. 1997. *A History of Palestine, 634-1099*. Cambridge: Cambridge University Press.
- Glueck, N. 1933. "Explorations in Eastern Palestine," I. *The Annual of the American Schools of Oriental Research*, 14, 1-113.
- Gregory, D. 2004. *The Colonial Present: Afghanistan, Palestine, Iraq* (pp. 1-15). Malden, MA: Blackwell Pub.
- Imseis, A. 2020. Negotiating the Illegal: On the United Nations and the Illegal Occupation of Palestine, 1967-2020. *Queen's University Legal Research Paper*, (2020-003).
- Imseis, A. 2021. "The United Nations Plan of Partition for Palestine Revisited: On the Origins of Palestine's International Legal Subalternity." *Stan. J. Int'l L.*, 57, 1.
- Irfan, A. 2020. "Palestine at the UN: The PLO and UNRWA in the 1970s." *Journal of Palestine Studies* 49(2): 26-47.
- Karsh, E. 2010. *Palestine Betrayed*. London and New Haven: Yale University Press.
- McCarthy, J. 1990. *The Population of Palestine*. Columbia University Press.
- Pappe, I. 2004. *A History of Modern Palestine: One Land, Two Peoples*. Cambridge: Cambridge University Press.
- Quigley, J. 2005. *The Case for Palestine: An International Law Perspective*. Duke University Press.
- Said, E. W. 1992. *The Question of Palestine*. New York: Vintage Books.
- Smith, C. D. 2004. *Palestine and the Arab-Israeli conflict*. Bedford/St. Martin's.

Drug Trafficking - A Contemporary Reality

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ABSTRACT: Drug trafficking is a global phenomenon. For some, it is a lifestyle, while for law enforcement, it is a constant struggle. This article is another step towards awareness and a reflection of the reality that surrounds us daily. The author did not set out to criticize but set out to understand. Still, the magnitude of this phenomenon is constantly evolving, and understanding could be easier in tandem with the effects of awareness. Thus, the author will talk about some characteristics of drugs and methods of hiding and manufacturing drugs.

KEYWORDS: drugs, masking, concealment, manufacture, distribution

Introduction

Since ancient times, plants, with all their attributes have been used to obtain a therapeutic effect and aphrodisiac effects proven in rituals. Due to changes in chemical structure, some plants tend to overcome the harmless barrier of the effects they produce, thus becoming very strong. The destination pursued by the chemical modification of these plants is found in what we call drugs today. The migration of "magical substances" occurred when the distance between the continents could be covered in a shorter time, and people who tasted these liqueurs were ecstatic about the conditions induced by them. This is how drug trafficking developed on a global scale, especially in the so-called civilized areas. Through the evolution of science and technology, the activity of drug trafficking has been perfected, becoming a planetary phenomenon, and the mafia has managed to anchor its structures in what we can call organized crime (Stancu 2008, 625-627) Although each state has implemented measures to detect, prevent and combat drug trafficking, the results have not been as expected. Thus, things deviated from normal and good functioning, creating serious problems for structures such as the police and other specialized bodies.

According to the antiquity of the attestations regarding narcotics, they are mentioned in the tablets of the Sumerians from Mesopotamia dating from about 7000 years ago. They targeted the poppy, from which opium and opium derivatives are obtained.

Narcotics have legal and pharmacological meaning. From a legal point of view, a narcotic is considered a drug when its capabilities in terms of abuse and addiction are highlighted. It is used in national and international drug control legislation. Unlike narcotics, the drug is a substance used in therapy, following medical indications, or substances included in the category of drugs, which misused, can induce a state of dependence - physical or mental - can cause irreversible disorders on the central nervous system, sensory perception and human behavior.

Withdrawal occurs 8-12 hours after the last dose of the drug and is manifested by tearing, rhinorrhea, yawning, agitation, sweating, insomnia, chicken skin, temperature, vomiting, abdominal pain, tachycardia, hypertension, intense localized pain muscular and skeletal system, which under certain conditions can lead to the death of the consumer.

Methods of concealing narcotics for trafficking

- Industrial manufacturing of means of drug concealment - consists in replacing food products with narcotics by using cans, labels, etc.;
- Artisanal production of concealers - is achieved by purchasing basic materials such as boxes, lids, labels. These are meant to hide the drugs to be transported:
- Replacement of the finished product in cans:
 - Normal opening of the box;

- Opening the box by making holes in its side walls, after removing the label;
- Cross-cutting the box and making a real lid;
- Soaking tissues with narcotics for the transport of cocaine by dissolving it in pure alcohol;
- Use of the postal system:
 - Hiding narcotics in letters (Stancu 2008, 636-638);
 - Hiding narcotics in packages (Buzatu 2012, 282);
- Use of couriers - they use different methods such as swallowing capsules, introduction into all anatomical cavities in both men and women, but also by using corpses.

Ways to hide drugs in traffic

Choosing a place to hide drugs is a real challenge for both the authorities and smugglers. Depending on the amount of narcotics to be trafficked, the means of transport used as well as the requirement of controls on the route taken by the trafficker, smugglers can choose a unique place for drug transport.

Hiding places in means of transport

- Means of transport: they are most commonly used because they can hide and transport up to 100 kg of drugs without attracting the attention of the authorities. Easily maneuverable places are most often used such as upholstery, wheel covers, glovebox, headlights, and other places specific to the inventiveness of each individual trafficker.
 - Railway wagons: they are used due to the multiple possibilities of concealment, but also due to the superficial control performed by the customs bodies at the border crossing;
 - In airplanes: the main mode is the transport of drugs in hand luggage but also in hold baggage;
 - On ships: in wind turbines, propellers, empty fuel tanks, crates, cabinets, pipes, etc. (*Idem*)

Hiding places in clothing

As mentioned above, traffickers can become very inventive when they get or do not benefit from the drug transport activity. They can also carry drugs due to their physical or moral constraints, but especially those of family members. Thus the drugs can be hidden in the lapel of the coat, inside the tie, pockets, lining, hats, fake heels, etc. (Buzatu 2012, 284). They can also be transported in corsets, bras, hairstyles, briefs, prostheses, in bags attached to the abdomen in the case of women simulating pregnancy but also in the anatomical cavities in both women and men (Romanian Journal of Forensic 2010, 532). In household and personal items: double-bottomed suitcases, picture frames, support sticks, umbrellas, pens, bags, glasses cases, dolls, wax or paraffin candles, sprays, lipsticks, perfume bottles, etc., in food, beverages, cigarettes;

Masking odors specific to narcotics

In order to hinder the activity of tracking dogs specialized in drug detection, traffickers adopt various methods, among which:

- Packing in special cartons or tin canisters, in which dried fish with a pungent odor and balls against moths were introduced (Buzatu 2013, 170);
- Introducing garlic or onion essences in packages (Buzatu 2012, 283);
- Packaging the drugs in airtight containers that do not allow the odor to be released unless these boxes have been handled by persons carrying the drug packaged on their hands.

Illicit manufacture, transport and distribution of drugs

The main purpose of the manufacture of certain categories of drugs is the medical use (codeine, diazepam). Although the trajectory of these substances is clearly established, abuse and illicit trafficking can often occur. Both synthetic and synthetic drugs with the exception of marijuana

require certain precursors in their manufacture. The manufacture of these substances takes place mainly clandestinely, in various isolated and unused spaces, with the use of cheap and improvised equipment. In order not to be detected by the police, the traffickers change the location of the laboratories quite often. A main cause would be the strong smell of acetone or other chemicals used in the manufacture of morphine or heroin, which betrays the existence of the laboratory. The distribution of drugs differs depending on the area. In some countries the goods are displayed on the side of the street or in taverns. In South America, bags of coca leaves are taken to the streets, and in Southeast Asia, opium is sold openly (www.scribd.com, 29.05.2021).

From these considerations, it appears that the distribution of drugs is not exactly secret. The opium is packed in cloth bags in the form of a cake and a recognition mark is applied. The operating systems used by drug traffickers represent an increasing degree of inventiveness. Thus, the places of hiding in traffic but also in clothing vary from one network to another. Those who transport drugs, also called carriers, endanger their lives by transporting these substances through the anatomical cavities where they are introduced. Fatality can occur both at the time of manufacture because this process takes place in makeshift halls, with cheap and poor-quality equipment, and during or after administration. Overdose is often the cause of immediate death, and infections with various pathogens lead to a delay in death, which will certainly set in (Romanian Journal of Forensic 2010, 532).

Globally, drug trafficking offenses are not limited to consumers. First of all, there must be someone to transport the “goods” and here we meet the carriers. Which either voluntarily, or under the rule of threat or blackmail, they end up risking their own lives to transport these substances. Then someone is needed to take over the “goods” and start distributing them to the population. As can be seen, these types of crimes are not only committed by an active subject. Distributors can choose to become consumers, or treat this business as a simple job. Terribleness, on the other hand, wreaks havoc in schools, with young people more often opting for a “rave party” than going out to the movies.

Numerous indicators of the most commonly used substances suggest that drug availability remains high. Along with developments in the field of production, the proliferation of interceptions of large quantities of cocaine, cannabis resin and more and more heroin transported by sea, often in intermodal containers, raises concerns about the infiltration of organized crime groups into supply chains, on transport routes and in large ports. Cannabis currently plays an important role in drug admissions, but the relationship between cannabis issues and drug market developments is not yet sufficiently understood. We are at a time when the cannabis market is changing, with products containing high THC (tetrahydrocannabinol) and a growing availability of new forms of cannabis and commercial products based on cannabis plant extracts. In addition, the resin and the cannabis plant now contain on average about twice as much THC as a decade ago. Together, all this suggests an urgent need for increased surveillance in this area (European Drugs Report 2020, 10, 16).

Conclusions

Time seems out of place, but the daily hustle and bustle with various activities meant to bring money, we are restricted from spending time with loved ones. Disadvantaged environments, broken families, too much power or too much money, all complete a puzzle of destruction. But what can be done socially to prevent and stop this phenomenon?

We keep hearing about involvement. Indeed, it plays an important role in this process. Implementing programs for this subject in schools, informing students about the consequences, both legal and health, are things that can be better developed and synchronized in relation to the incidence of cases in a particular area. These programs should be compulsory and may be covered by a subject such as legal education. It would be a small step, but with a big impact. The emphasis should be more on the changes that society is witnessing, without being considered a taboo

subject. Promoting various campaigns in the media with the harmful effects of these substances would have a healthier effect than promoting various foods containing thousands of carcinogens.

Narcotics are and will continue to be a global issue. Although the authorities do their best to stop and destroy traffickers' networks, work must be done at the level of information, prevention and rehabilitation, in relation to the case law of each community.

References

- Buzatu Nicoleta-Elena. 2012. *Criminalistică (Forensics)*. Bucharest: Pro Universitaria Publishing House.
- Buzatu Nicoleta-Elena. 2012. *Traficul și consumul ilicit de droguri. Aspecte multidisciplinare (Illicit drug trafficking and use. Multidisciplinary aspects)*. Bucharest: Universul Juridic Publishing House.
- European Drug Report 2020: Trends and Developments. 2020. Luxembourg: Office for Official Publications of the European Communities. https://www.drugsandalcohol.ie/33049/1/EMCDDA_EDR_2020.pdf
- Revista Română de Criminalistică (Romanian Journal of Forensics) no. 5, vol XI, 2010.
- Scribd.com, accessed on May 29, 2021.
- Stancu Emilian. 2008. *Tratat de criminalistică (Forensic Treatise)*. 4th edition. Bucharest: Universul Juridic Publishing House.

Investigation Methods of Corruption Cases

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ABSTRACT: The fight against crime is a complex area. We cannot talk about organized crime without talking about corruption offenses, the corruption of police officers, magistrates, civil servants who protect, prevent criminals from various measures that could affect them, which help not to sanction them, aiming to shelter illegal activities committed by them, by the corruption of politicians. Corruption takes place both nationally and internationally, which requires the discovery and sanctioning of the involvement of several jurisdictions, judicial bodies belonging to several states and different laws, transnational corruption being a complex phenomenon and challenging to incriminate and sanction. Due to the complexity of this phenomenon, the investigation of corruption crimes, from a forensic point of view, has special importance. The bodies responsible for combating this scourge must act promptly and with the utmost caution. In order to ensure the correct repression and investigation of corruption offenses, it is necessary to draw special attention to the forensic methodology of investigating acts of corruption.

KEYWORDS: corruption, forensic investigation, special techniques, facts, crimes

Introduction

The Romanian Criminal Code regulates in Title V of the Special Part “Corruption and service offenses”, this being divided into two chapters: Chapter I - “Corruption” (art. 289-294) and Chapter II - “Offenses in public position” (art. 295-309) (See Cristiean 2017, 149-234). Through this structure, a prompt response was given to the critics regarding the normative approach from the old regulation which included in the same chapter the service offenses and the corruption offenses cumulated under the name of “Service offenses or in connection with the service”. The new legislative technique restores the order of social values protected by criminal law, corruption crimes occupying a primary regulatory position taking into account the importance given to the process of combating corruption, both in Romania and at European and international level.

Regarding the notion of corruption, we note that such a definition does not exist at the international level. Nor is the Convention against Corruption published in the Official Gazette no 903 of October 5, 2004 did not formulate such a definition. The Convention does not define corruption in general, but specific forms of its manifestation, such as taking a bribe, giving a bribe, influence peddling, buying influence, embezzlement, abuse of office etc.

Corruption is of many kinds: big corruption, small corruption, active corruption and passive corruption. Within the meaning of this Convention there are many special investigative techniques aimed at obtaining and ensuring the integrity of evidence, such as: technical supervision, physical surveillance and observation/screening, undercover operations, informants, integrity tests, monitoring of financial transactions.

The forensic investigation of corruption requires the use of special measures against the background of the existence of solid indications of committing corruption offenses, in order to gather evidence to establish the criminal liability of the perpetrator. By virtue of the provisions of criminal proceedings, the following are considered special methods of surveillance or investigation: interception of conversations and communications, access to a computer system, video, audio or photography surveillance, location or tracking by technical means, obtaining a list of telephone calls, detention or searching postal items, requesting and obtaining financial transaction data as well as a person’s financial data, using undercover investigators, finding a corruption offense or concluding a convention, supervised delivery, identifying the subscriber, owner or user of a telecommunications or an access point to a computer (Article 139 of the Romanian Criminal Procedure Code).

Technical surveillance

Technical (electronic) surveillance involves the use of electronic means such as video and audio recordings, for collecting information, evidence, surveillance of telephone conversations, electronic correspondence, etc., only after obtaining the reasoned authorization of the judge, at the request of the prosecutor conducting or supervising the criminal investigation, if there are given or solid evidence regarding the preparation or commission of a crime for which the criminal investigation is carried out *ex officio* (Leția 2014, 128). From a technical-forensic point of view, for the interception of communications in the case of corruption offenses, the investigation bodies use a wide range of technical means (systems, devices, equipment), depending on the particularities of the type of communication intercepted.

The interception of communications is implemented at the request of the prosecutor for a period of 30 days based on a warrant issued by the judge of rights and freedoms from the court which would have jurisdiction to judge the case in the first instance or from the corresponding court in its degree in whose constituency is the headquarters of the prosecutor's office of which the prosecutor who made the request belongs. Exceptionally, the technical surveillance may be authorized by the prosecutor, for a maximum period of 48 hours, in case of emergency, for example in the event that, during the technical supervision, it is found that the monitored person uses another telephone. of which the criminal investigation bodies had not been aware until then (Udroiu 2017, 429).

The Romanian criminal procedure law establishes two limitations in technical surveillance, implicitly in the sphere of interception of communications or any type of remote communication. The first of them is signaled in art. 139, para. (3) which considers that the recordings made by the parties or other persons constitute means of proof when they concern their own conversations or communications that they have had with third parties. Any other recordings may constitute evidence if they are not prohibited by law. The second restriction is affirmed by the following paragraph, constituting, at the same time, a guarantee of the right to defense: "the relationship between the lawyer and the person he assists or represents cannot be the object of technical supervision unless there are data that the lawyer commits or prepares to commit an offense among those provided in par. (2). If during or after the execution of the measure it results that the technical surveillance activities also concerned the relations between the lawyer and the suspect or defendant he is defending, the evidence obtained cannot be used in any criminal trial, and will be destroyed immediately by to the prosecutor. The judge who ordered the measure is immediately informed by the prosecutor. When he deems it necessary, the judge orders the lawyer to be informed".

Regarding the fixing of the results obtained following the activity of interception of communications, art. 143, para. (4) of the Romanian Criminal Procedure Code states that "all intercepted and recorded conversations, communications or conversations, which concern the act that forms the object of the investigation or contribute to the identification or location of persons, are rendered by the prosecutor or the criminal investigation body in minutes in which the mandate issued for their execution, the numbers of the telephone stations, the identification data of the computer systems or the access points, the names of the persons who made the communications, if known, the date and time of each call or communication. The minutes are certified for authenticity by the prosecutor".

The application of the provisions rendered in the situation of committing corruption crimes and those assimilated to them can lead to their direct documentation and to the gathering of undoubted evidence confirming, corroborated with the other means of proof, the guilt of the perpetrator and all participants.

Physical surveillance and wiring

Physical surveillance consists of the physical pursuit of suspects and their filming.

Undercover operations

They are recognized as extremely effective due to the infiltration of a person into a criminal group or the use of witnesses. The use of undercover investigators and collaborators in the investigation means the use of a person with a different identity than the real one in order to collect data and information on the commission of a crime (Udroiu 2017, 449), in this case one of corruption or a crime assimilated to those of corruption. Article 138, paragraph (10) of the Romanian Criminal Procedure Code provides the same definition of the operation under examination.

Undercover investigators are operative workers working within the judicial police, for example, they may be part of the Special Operations Directorate or the General Anticorruption Directorate. The status of collaborator can be held by any person (whistle blower witnesses, workers from state institutions, including officials suspected of committing corruption offenses, etc.). Collaborators may be used as sources of information in investigations of the same wrongdoing for which undercover investigators may be authorized.

In accordance with article 148, par. (1) of the criminal procedure law, “the use of undercover investigators may be ordered for a period of 60 days by the prosecutor supervising or conducting the criminal investigation”, insofar as certain conditions are met (see Udroiu 2017, 430).

The informants

They are real sources of information and obtaining the necessary evidence for research bodies, and can be recruited even from public institutions. Obtaining the samples can be done through undercover operations, by electronic, technical supervision, by audio-video recordings. In most cases, informants are cited as witnesses in the processes in which they supported the research bodies to gather evidence (Leția 2014, 130-131).

Integrity tests are a method of preventing the commission of crimes of corruption by persons with responsibilities in preventing, combating and sanctioning these acts. One of the ways in which integrity tests materialize is when a civil servant (see Popescu 2018, 249) in the performance of his duties is bribed by an undercover officer to cause him to fail to perform his duties (Leția 2014, 131).

Monitoring financial transactions

The issue of regulation by the provisions of the Romanian Code of Criminal Procedure of the institution of supervision of bank accounts receives special attention, given the current priority of state institutions in combating macroeconomic and financial crime and the need to ensure effective investigative means (Olaru 2014, 122).

Article 138, para. (9) of Romanian Criminal Procedure Code provides that “obtaining data on a person’s financial transactions means operations that ensure knowledge of the content of financial transactions and other operations performed or to be performed through a credit institution or other financial entity, as well as obtaining to a credit institution or other financial institution of documents or information in its possession regarding the transactions or operations of a person”. These activities fall into the category of special investigative methods during the criminal investigation initiated in order to investigate a corruption offense or one assimilated to corruption offenses.

The authorization procedure begins with the issuance of the warrant by the judge of rights and freedoms from the court which would have jurisdiction to judge the case in the first instance or from the corresponding court in its degree in whose district the prosecutor's office is located drafted the proposal, regarding the financial transactions of the perpetrator, suspect, defendant or

of any person who is suspected of carrying out such operations with the perpetrator, suspect or defendant (Art. 146¹ Romanian Criminal Procedure Code).

In urgent cases that could lead to delays in investigations, loss, destruction or alteration of evidence or endangerment of the victim, situations that prevent obtaining the warrant on the main road, respectively its issuance by the judge of rights and freedoms, the prosecutor has the opportunity to obtain data on transactions made or to be made subject to confirmation by the judge of rights and freedoms.

In order not to obstruct the administration of justice, the criminal procedure law establishes the obligation of credit institutions and financial entities to cooperate with the criminal investigation bodies, providing them with the required documents and information, regardless of the nature of the crime investigated, including those of corruption.

Finding a corruption offense or concluding a convention

The finding of a corruption offense can also be achieved through the action or inaction that is similar to a corruption offense, committed for the purpose of gathering evidence in criminal proceedings. The measure is ordered by the prosecutor, ex officio or at the request of the criminal investigation body, by ordinance.

The initial duration of the measure is 60 days, and the total duration of the same person and the same act may not exceed one year. The activity of the person involved in the commission of an offense of corruption or the conclusion of a convention does not constitute a challenge, contravention or offense. Judicial bodies may use or make available to the person enforcing the measure of finding an offense of corruption or concluding a convention any documents or objects necessary for the performance of the authorized activity (Leția 2014, 134).

Conclusions

The topicality of the approached subject has its roots in the urgent need to combat this dangerous reality by adopting fair, stable legislation without gaps that would encourage criminal perseverance. In order to eradicate this phenomenon, it is necessary to manifest such an attitude both globally, on the scale of international organizations, and domestically, at the national level.

Thus, the need for joint action of the state and society in order to adopt radical measures to improve and intensify the activity of the bodies in this area, to know the forensic model of these criminal acts, as well as to create stricter legislation, with a stronger impact in this direction.

References

- Cristiean, V. 2017. *Drept penal. Partea special II [Criminal law. Special part II]*. Bucharest: Universul Juridic Publishing House.
- Leția, A.A. 2014. *Investigarea criminalității de afaceri. Spălarea banilor. Corupția și fraudă fiscală. Aspect teoretice și practice [Investigation of business crime. Money laundering. Corruption and tax fraud. Theoretical and practical aspects]*. Bucharest: Universul Juridic Publishing House.
- Olaru, C. 2014. *Mijloace specifice de investigare a infracțiunilor de criminalitate organizată [Specific means of investigating organized crime offenses]*. Bucharest: Hamangiu Publishing House.
- Popescu, A. M. 2018. *Drept administrativ general. Manual de studiu individual [General administrative law. Individual study manual]*. Bucharest: Pro Universitaria Publishing House.
- Romanian Criminal Code. Available at <http://legislatie.just.ro/Public/DetaliiDocument/109855>.
- Romanian Criminal Procedure Code, published in the Official Journal of Romania, Part I, until 7 February 2014. <https://www.legislationline.org/documents/action/popup/id/19707>.
- Udroiu, M. 2017. *Procedură penală. Partea generală [Criminal procedure. General part]*. 4th edition. Bucharest: C.H. Beck Publishing House.

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