RAIS CONFERENCE PROCEEDINGS

The 33rd International RAIS Conference on Social Sciences and Humanities

August 3-4, 2023

Editors: Daniel Orogun, PhD

Nicoleta-Elena Heghes, PhD

This publication presents the proceedings of the *33rd International RAIS Conference on Social Sciences and Humanities* held at Princeton, The Erdman Center, 20 Library Place, Princeton, NJ 08540, USA, on August 3-4, 2023. The Conference was organized by Research Association for Interdisciplinary Studies. The Research Association for Interdisciplinary Studies is an international scientific organization based in the United States of America with the mission of promoting human values through interdisciplinary scientific research.

ISSN 2578-8574
ISBN: 978-1-945298-58-5
The Scientific Press, Cambridge, MA
Editors: Daniel Orogun, PhD
Nicoleta-Elena Hegheș, PhD

Proceedings of the 33rd International RAIS Conference on Social Sciences and Humanities

ISSN 2578-8574
ISBN: 978-1-945298-58-5

August 3-4, 2023
Princeton, NJ, USA

TABLE OF CONTENTS

Table of Contents

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:áĢî¶đ¬áćĠ§ÖÚ}Úî¬ČáĢĢ¶á

Courting Trauma: An Unspoken Mental Health Crisis Among Journalists in East Africa

Lydia Ouma Radoli

Leuphana Institute of Advanced Studies in Culture and Society (LIAS-CAS)
Leuphana University Lüneburg, Germany, lydia.radoli@leuphana.de

ABSTRACT: For journalists covering trauma, capturing horrific images is part of the job. Each assignment feeds into the next, creating a cycle of witnessing horror. The story begins with getting the visuals, talking to witnesses, recording evidence, packaging, and relaying to the audience. The story is not worthwhile without visuals. However, every traumatic image captured is seared in the journalist's cerebral cortex. In this delicate space, the images live and become part of the journalist's internal memory. A silent companion, a constant reminder of the horror the journalist has witnessed - signaling a courtship of sorts. Using narrativity and in-depth interviews as qualitative methods, the paper situates the problem of a mental health crisis among journalists in East Africa covering traumatic events. Through in-depth interviews, narratives of journalists from Kenya, Uganda, and Rwanda indicate a courtship with trauma in the line of duty. The journalists are contextualized as visual rhetors – engaged in the production and dissemination of horrific or difficult visual content. Frost (2019) describes visual rhetors as journalists who witness and produce visual frames of the dark side. This form of media practice produces images of violent conflicts. Learning from Visual Rhetoric and Dual Representation theoretical frames, the paper examines a correlation between visual rhetors 'exposure to horrific images and trauma. Arguing that visual rhetors' multiple exposure to traumatic images in the production process causes trauma. The escalation of trauma as a mental health issue among visual rhetors is seldom talked about, yet it poses a mounting crisis that demands intervention.

KEYWORDS: journalists courting of trauma, unspoken mental health crisis, narrativity, portraiture

Introduction

The *'courting trauma'* imagery describes the connection between journalism and trauma following the accumulation of emotional disturbances after repeated exposure to horrific visuals. Work-related trauma is prevalent in high-stress professions such as law enforcement, the military, and in journalism. The near symbiotic relationship between trauma and exposure to violent visuals forces journalists to reproduce horrific images to either find coping mechanisms or succumb to trauma. In East Africa, journalists covering traumatic events, referred to in this paper as *visual rhetors* – those who witness and produce visual frames of the *dark side* Frost (2019), rarely speak out. The trauma remains hidden or suppressed and is not the result of a single, isolated traumatic event, but rather a gradual buildup of exposure to trauma over time. Thus, initiating a courtship of sorts. Many studies have been conducted to investigate the effects of violent images on war correspondents and journalists who cover large-scale disasters (Crouch et al. 2006; Feinstein and Nicolson 2005; Feinstein et al. 2015; Feinstein et al. 2019). In the 1990s and early 2000s, Anthony Feinstein was one of the first social scientists to perform an empirical study on the psychological effects of war reporting. Feinstein is also credited with dispelling the misconception that combat journalists and foreign correspondents were immune to emotional trauma in the form of Post Traumatic Stress Disorder (PTSD) (Massé 2011). These journalists were regularly exposed to traumatic content including graphic images, videos, and firsthand accounts of violence and tragedy. Over time, Feinstein et al. (2014) established that repeated exposure to trauma can take a toll on journalists' mental health, leading to symptoms such as anxiety, depression, and post-traumatic stress disorder (PTSD). Courting trauma can be pernicious because the impact of frequent exposure to trauma on mental health can go undetected. Regardless, visual rhetors have an obligation to continue reporting on trauma events as a precinct inherent in the journalism industry, even if they are aware of the negative effects these events

have on their mental health. In East Africa, visual rhetors are pressured to produce content quickly and accurately, usually with limited resources and psycho-social support. They may also face harassment, threats to their safety, and censorship, further exacerbating work-related stress. Although their dedication to their work is admirable, it can affect their mental health. Visual rhetors may also feel guilty, ashamed, and helpless after witnessing traumatic events (Holmes and Corrin 2008). Violent visuals can trigger trauma by activating the brain's threat response system, which prepares the body for fight or flight (Feinstein et al. 2015). This system involves the release of stress hormones such as adrenaline and cortisol, which increase heart rate, blood pressure, and alertness (Brewin et al. 1996). However, when the threat is prolonged or repeated, as it often is for visual rhetors, this system can become dysregulated and cause chronic stress. Chronic stress can impair the brain's ability to process and store information, regulate emotions, and form memories. This can result in flashbacks, nightmares, intrusive thoughts, avoidance, numbness, or hyperarousal symptoms (Brewin et al 1996; Frosh Pinchevski 2014). According to Pearson et al., (2012) exposure to violent visuals, such as graphic images or videos of violent events, can similarly affect the brain in the same way exposure to a traumatic event does. According to psychologists (Byrne Becker, Burgess 2007) even if a person is not present during the violent occurrence and merely recounts what another party tells them, their brain can perceive the visuals as a threat and so activate the stress response.

Literature Review

Violent images

Horrific images are ubiquitous in today's media landscape, especially in the coverage of wars, conflicts, and disasters. Visual rhetors working with these images, whether they are photographers, editors, or videographers, face a unique set of challenges and risks. For example, Feinstein and Owen's (2013) research on war journalists showed higher rates of PTSD and depression when compared to journalists who limit themselves to other social issues and avoid risky and violent locations for stories. Feinstein et al. (2014) acknowledge that frequency rather than duration of exposure to images of graphic violence is more emotionally distressing to journalists dealing with User Generated Content (UGC). In addition, journalists become desensitized in the process, and violent images have a less emotional effect on them over time. While this can be a coping technique that allows them to continue working, it can also make it difficult for them to sympathize with the subjects of their reporting. Exposure to violent graphics (Feinstein 2014), and financial distress (Papadopoulou et al. 2022) can also have a negative impact on a journalist's physical health, causing headaches, stomach issues, and sleep disorders (insomnia and nightmares). Since visual rhetors are at a higher risk for mental health issues, they require intentional self-care and support from colleagues, friends, and family to cope with the drawbacks of their work. The rhetors are usually the first respondents and eyewitnesses to violent news and trauma reporting, which takes a heavy toll on their mental health (Seely 2017; Keats 2010).

Journalism Practice and Mental Health

Visual rhetors in East Africa are continuously exposed to various sources of stress, such as covering traumatic events, working under tight deadlines, facing online harassment, and coping with uncertainty and instability in the industry. This happens even as they undertake a responsibility to produce content for the masses and societal voices. The stressors put their mental well-being at risk. Possetti et al. (2023) survey indicates that during the COVID-19 pandemic, 70% of journalists reported psychological distress due to their work. In another study, the Reuters Institute for the Study of Journalism found that female journalists were more likely to experience harassment and threats online than male journalists, which can also

impact their mental health (Newman et al. 2023). Moreover, journalists who cover topics such as climate change, human rights, and social justice may face additional challenges and risks that can affect their emotional well-being, the study reported. Additionally, Keats (2010) avers that the experience of photographers capturing traumatic events differs from that of print journalists, especially since they are often pressured to get up close to gruesome and horrific crime scenes as part of their jobs. Despite these challenges, visual rhetors in East Africa must deal with stigma, lack of awareness, access to professional help, and lack of organizational policies and practices that promote a healthy work environment. As a result, they may suffer in silence or resort to unhealthy coping mechanisms, such as substance abuse or self-isolation. This happens despite the critical role of the media in holding those in power accountable and fostering dialogue and democracy. Poor mental health state affects the ability of visual rhetors to perform their duties effectively and ethically. Furthermore, the mental health impacts of journalism in East Africa are usually not well-understood or talked about openly. This is due to the stigma and cultural norms surrounding mental health issues and the overall perception that journalists should be able to manage the demands of their work without showing weakness. Consequently, journalists in the region hesitate to seek help when they struggle with mental health issues, which can cause more severe problems as time passes.

The Nexus Between Trauma Visuals and Mental Health

Reporting on violence can be a double-edged sword for visual rhetors who encounter constant mental health stressors from graphic images, sounds, and accounts of violence. In East Africa, journalists must deal with other setbacks like threats of violence and political pressure which contribute to the sense of helplessness and despair. East Africa contends with less sensitization and vitality in addressing mental health issues among journalists. Routine subjection to trauma leaves visual rhetors feeling unsupported and isolated choking on their unburdened experiences of trauma. Since they work under stressful and dangerous conditions, visual rhetors are among the groups vulnerable to mental health problems. According to a survey conducted by Médecins Sans Frontiers (MSF) in 2019, displaced and distressed people in East Africa face elevated levels of mental health needs, often linked to their experiences of past displacement and future uncertainty. Mental health among journalists in East Africa is intricately linked to experiences of violence, war, trauma, and harassment. For example, a study by the African Centre for Media Excellence (ACME) found that 70% of Ugandan journalists reported experiencing threats or intimidation during work, and 40% said they had suffered physical attacks (Mwesige et al 2018). Another study by the Media Council of Kenya (MCK) revealed that 86% of Kenyan journalists had witnessed traumatic events such as death, torture, or rape, and 29% showed symptoms of post-traumatic stress disorder (PTSD) (MCK 2016). According to Reporters San Frontier (RSF 2023), Rwanda's specter of genocide lingers in journalists' collective memory, and genocide-related news must adhere government's ideology. Three decades of terror and a culture of silence limit freedom of expression, affecting journalists' work. Journalists are frequently subdued to surveillance, espionage, arrest, and enforced disappearance (RSF 2023). Despite these challenges, many visual rhetors in East Africa lack adequate access to mental health services or support. The World Health Organization (WHO) reports that most African governments spend less than 1% of their allocated health budget on mental illness (Mayberry 2021). Moreover, stigma and lack of awareness around mental health issues can prevent journalists from seeking help or disclosing their problems. A report by the International News Safety Institute (INSI 2014) noted that some African journalists felt ashamed or weak for admitting their mental health struggles, losing their jobs or credibility.

Visual Rhetors and The Dark Side

Visual rhetors are journalists who produce visual frames of the *dark side* Frost (2019). Visual rhetors must consider many factors when producing or choosing visual content, such as the context, the audience, the purpose, the ethics, and the aesthetics of the visuals. They also must be aware of the effects of visual content on the viewers, such as emotional responses, cognitive processes, and behavioral changes. They can use various strategies and techniques to enhance the impact and meaning of visual content, such as framing, cropping, editing, captioning, juxtaposing, and narrating. The choice of modes and genres of visual content suit different situations and goals, such as news photos, documentaries, infographics, cartoons, memes, and interactive media. Visual rhetors play an essential role in journalism because they inform, educate, entertain, inspire, and challenge the public through visual storytelling. The stories are interrelated and may include themes like violence, crime, and terror. Producing a visual image in journalism involves capturing, editing, rendering, and previewing, therefore, generating multiple, similar, and dissimilar exposures to trauma. The following figure indicates the frames of stories visual rhetors in East Africa produce.

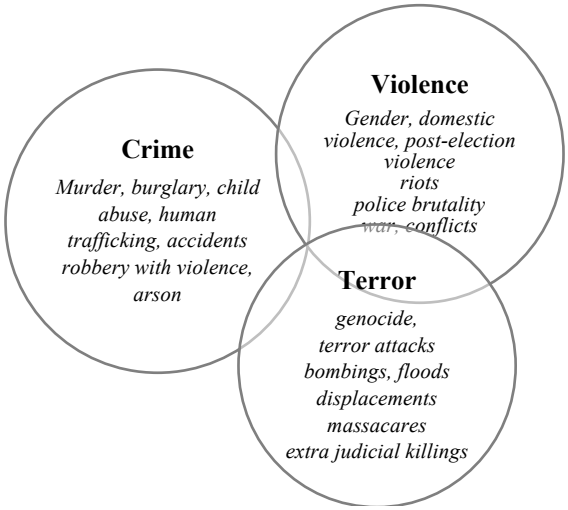

Figure 1: Frames of Trauma Stories
Source: Author 2023

Visual Rhetoric Theory

Visual Rhetoric theory is concerned with the study of visual imagery within the discipline of rhetoric (Foss 2005). It is a branch of knowledge dating back to classical Greece as a study of symbols, essentially it fits within the foundation concepts of communication. Visual rhetoric refers to the use of visual imagery to achieve a communication goal such as to influence people's attitudes, opinions, and beliefs. The study of visual rhetoric, therefore, is to ask the question; "how do images act rhetorically upon viewers?" (Hill and Helmers 2012, 1). The techniques of visual rhetoric align with the classic pillars of rhetoric: a) *Ethos* - an ethical appeal meant to convince an audience of the author's credibility or character; b) *Pathos* - an emotional appeal meant to persuade an audience by appealing to their emotions; c) *Logos* - an appeal to logic meant to convince an audience using logic or reason (Randy 2013). However, relevant to this paper, is how capturing images impacts visual rhetors. The rhetoric theory is concerned with the social function that influences and managed meanings (Blummet 1991: xiv), therefore suggesting a link between image and rhetoric. Key factors that enhance the choice of image and its interpretation in media use include; a) *the nature of the image* - the

identification of the image by looking at features captions, the material used, and forms of the image; b) *the function of the image* - concerned with how the image operates to the viewer's purpose and the effect intended by the creator of the image; c) *evaluation of the image* - assessing the image using the criteria of whether it performs the role intended by the of the creator (Foss 2005). Visual rhetors apply news frames aimed to shock and provoke human interest in the production of content. The images are convoluted sometimes in an unpalatable visual meal of bloodshed, death, maiming, destruction, and horror. The showing of difficult images is disturbing yet done for the public interest and recording history. Depiction of horrific images can be traced to the 1890s, William Hearst's chronicles dubbed the first "*media war"*. Hearst's emphasis on visuals was prominent when he realized that audiences were attracted to horrific images. He developed the phrase; *"If it bleeds, it leads"* (PBS 1999). The visual rhetoric theory offers an interpretation of visuals that are seemingly dangerous to the health of journalists. Although visuals are edited to meet the safety and ethical needs of audiences, visual rhetors capture and process raw uncensored images. Best (2021) is critical of the adage phrase that put emphasis on gory images and is blind to the destructive nature of violent visuals. This calls for scrutiny and alternative news frames that depict considerable sensory and ethical keenness.

Dual Representation

Chris Brewin, Stephen Joseph, and Tim Dalgleish developed the Dual Representation Theory (DRT) in 1996. The theory is rooted in psychology to explain the symptoms of Post-Traumatic Stress Disorder (PTSD). It attributes certain symptoms such as nightmares, flashbacks, and emotional disturbance to the memory process that occurs following exposure to a traumatic incident. Brewin et al (1996) recognize that PTSD is commonly characterized by several negative emotions, such as sadness and anger, and by negative cognitions, such as guilt. Further, indicating that at the core of PTSD is the alternation between re-experiencing and avoiding trauma-related memories. DRT offers two distinct memory systems that operate concurrently during memory formation: the Verbally Accessible Memory system (VAM) and the Situationally Accessible Memory system (SAM). According to Brewin et al., (1996), the VAM system consists of consciously processed knowledge that can be recalled and reported. The SAM system on the other hand stores unconsciously processed sensory information that cannot be intentionally remembered. According to this view, the VAM system is damaged after a traumatic experience because conscious attention is attached to the related information. The authors argue that as a result, trauma memory is disproportionately focused on dread, which inhibits information processing. The outcome is PTSD symptoms such as trauma-related cognitions, assessments, and emotions. During a traumatic incident, the SAM system records vivid sensory information, which is automatically retrieved when exposed to trauma-related stimuli. The system is assumed to oversee flashbacks, and nightmares in the PTSD symptomatology. The theory suggests three outcomes of the emotional processing of trauma, *successful completion*, *chronic processing*, and *premature inhibition of processing* (Brewin et al, 1996). Though with criticism, the theory was updated in line with the developments in cognitive neuroscience (Brewin, Gregory, Lipton and Burgess 2010; Byrne, Becker, and Burgess 2007). In the revision, authors (Pearson et al. 2012) spell that involuntary flashbacks as a symptom of PTSD arise from an imbalance between sensory and contextual representations registered at the time of the trauma. DRT emphasizes the relationship between the information received and how it is processed. For instance, sensory information from traumatic images is stored in the memories of visual rhetors and releases emotional stimuli like flashbacks, nightmares, and hypersensitivity. The visual rhetoric and Dual Representation theories explain the connection between exposure to horrific visuals and trauma.

Method and Materials

Primary data was sourced from qualitative in-depth interviews with twenty-four (n=24) journalists, 8 participants from each country. The visual rhetors had covered or were still covering traumatic events. The data for this paper is derived from an ongoing study on the *visual witnessing trauma phenomenon among journalists in East Africa*. To further investigate trauma among journalists in the region, a second phase of the study uses a mixed methods approach triangulating a PTSD symptomatology survey and in-depth interviews linking trauma journalism and psychology. However, the focus of this paper is to situate *unvoiced narratives* from accounts of visual rhetors from Kenya, Uganda, and Rwanda based on in-depth interviews, observations, and field notes. This paper employs narrativity as a qualitative method that involves eliciting stories from participants about their experiences, beliefs, and perspectives. Narratives can provide rich and nuanced insights into the meanings and interpretations that people assign to their lives and contexts. According to (Manfred, 2021) narratives can reveal complexities and contradictions that shape human behavior and identity. Narrativity allows for the exploration of multiple dimensions of reality and respects the agency and voice of the participants. Narratives foster empathy and understanding among researchers and audiences. The method recognizes the vitality of storytelling and individual experiences in comprehending complex social phenomena.

Studies show that fewer than twenty participants are sufficient for in-depth analysis (Crouch and McKenzie 2006). Polkinghorne (1989) recommends that a qualitative in-depth interview should at least be carried out with between 5 and 25 participants. Traumatic stories are risky and less attractive to journalists, a few visual rhetors were engaged in this genre, further making their stories vital. The visual rhetors had covered trauma events for close to or over a decade. Some of the stories were intense and involved *terror*, *crime*, and *violence* and generated a lot of national and global interest. The analysis follows Marsh and White's (2006) steps for narrative analysis: a) identification of visual rhetors; b) data collection and recording; c) transcription of data; d) theming of the data to address research questions; e) interpretation of meanings; f) analysis and presentation of findings; g) making conclusions. The analyzed themes identify constructs of stories and meanings that ascribe experiences of trauma.

Findings

Narratives depict visual rhetors in East Africa who have courted trauma in the line of duty in the absence of trauma counseling. Some of the visual rhetors revealed gripping details that demonstrated the extent of the trauma that was harbored in their memories. There were vivid manifestations of trauma among the rhetors during the interviews. The rhetors perceived journalism as a calling to accept exposure to horrific images as part of the job. The visual rhetors braved every day of the field assignment with a strong resilience masked in blurry eyes and heavy hearts. Issues on mental health were seldom talked about or addressed in newsrooms. Some newsrooms in East Africa lacked sufficient human resources and relied on interns or newly recruited journalists to supply the demand for traumatic news content. One respondent from Kenya detailed:

> *"Unfortunately, in the newsroom when there is breaking news, we have limited time and workforce. You will find rookie reporters, and junior reporters being sent to such events because nobody knows what is really happening"(n=2).*

Journalists grappled with precarious social and economic strains. There were cases where journalists were harassed in the line of duty, particularly in covering political strife or being critical of regimes. Some journalists faced dire financial consequences as salaries were slashed due to the after-effects of COVID-19 or just poor economics. Others had lost their

jobs and struggled to meet their financial obligations. These cases contributed to psycho-social challenges. As a respondent from Uganda noted:

> *"When people tell you 'Umese mobile – 'you look bad' (authors translation) then you know its stress. But you can't know, like here some of us are given freelance contracts but in the actual sense, you are not a freelancer, you are on a full-time job"(n=4).*

Culture of Silence

Visual rhetors' experiences of trauma in newsrooms were trivialized. Those who spoke about their individual experiences of trauma were considered weak. The visual rhetors were male cultured to stay silent and refrain from showing any sense of emotional weakness. The work in newsroom structures also demanded sturdy journalists capable of meeting deadlines and rigorous work schedules. In most cases, silence became a mechanism of not having to tell the experience and avoiding the conversation altogether. The construct of silence was prevalent in the deprivation of safe spaces where the journalists could become vulnerable, without having to attract negative comments or prejudice from their peers and editors. Still, speaking of the trauma experiences was received with subtle denial or contempt. Another visual rhetor from Uganda noted.

> *"When I returned to the newsroom my boss asked me if I had the story. He did not think about how I had risked my life but was eager to get the story. I am lucky that most of the time when I come from the field I don't edit. I avoid it and create excuses. "I keep myself busy, to protect myself" (n=3).*

Marginalization of Voices of 'Self'

In journalism practice, the story is the priority, while expressions of 'self' must be refrained. Visual rhetors were utterly concerned with their inability to help the affected subjects of their stories. The structures and formats of storytelling also preclude experiences of self unless one was doing a first-person account story genre. Visual rhetors are required to disassociate from the stories and subjects they cover. The rhetors are frequently at the center of active violence. They are often injured on the assignments and face life-threatening situations, only when they produce reporters' packages (narrations from the field) do audiences get a glimpse of the risks involved. However, personal danger is not as prioritized as the breaking news event.

> *"When I returned to the newsroom my boss asked me if I had the story. He did not think about how I had risked my life but was eager to get the story. I am lucky that most of the time when I come from the field I don't edit. I avoid it and create excuses. "I keep myself busy, to protect myself" (n=1).*

Minimalization of Trauma

Visual rhetoric creates an emotional detachment as a coping mechanism. The rhetors are expected to make choices in the process of constant coverage of traumatic events. They tend to veer away from speaking to people about traumatic experiences and may come across as cold and callous. The visual rhetors are accustomed to watching horrific events and are likely to employ unnecessarily intense graphic images and may not realize their effect on the general audience. Newsrooms do not provide support for rhetors who grapple with mental health issues. Most newsrooms provided safety and security measures for the journalists, however, exposure to trauma is viewed as an occupational hazard:

> "*Unfortunately, there is no time to have conversations with the editors, occasionally unless you tell the editor that… "you know what I saw this and that…" Some would just ignore, and some would remind you that the newsroom is a crisis center. You are always on the move, and you must develop a thick skin"(n=8).*

Silent Guilt and Self Doubt

The guilt comes mostly from the inability to offer any help to the victims of violence whose stories the visual rhetors capture in their coverage of news. The rhetors are sometimes represented in the imagery of *'vultures'* descending on the victims and witnesses of crime and terror hungering for their narratives, pictures, and experiences. When the story is done, the visual rhetors pack and leave the victims to deal with the aftermaths of the trauma. The feeling of helplessness among the visual rhetors is experienced after emerging from the field, long after the story is done. There is physical isolation from the site of the story and assignment, however, the experiences remain in the minds of the journalists.

> *"That time I could feel the smell of death, I could smell death in my nostrils and all that. I was so shaken that I had to spend the night out of the capital. I went to Nakuru and booked a hotel away from Nairobi. Because I was smelling death" (n=7).*

Alternative Trauma Mitigation

There is evidence that African knowledge provides cultural, religious, and communal forms that can be applied to interventions for trauma among journalists. Visual rhetors' narratives form aspects of the oral tradition that can inform newsrooms on talk therapies to deal with trauma. Visual rhetors sometimes found sharing with their spouses, family, and friends relieving, they noted that colleagues in the newsrooms were not open to engaging in conversations on trauma experiences.

> *"So, you end up feeling pain and no one can notice that pain except God. There are no mitigations before going to the field and after. I am lucky that I got an understanding wife. Somethings when you talk to her, she can understand you, and she can calm you down. I also have two friends, most of my friends are older people" (n=6).*

However, such mitigating efforts should not be one-off initiatives but must be embedded in the practice of journalism throughout the newsrooms.

Discussion

Visual Rhetoric (Foss 2005) and Dual Representation Theories (Brewin et al 1996) connect the production of visuals and trauma phenomena among visual rhetors. The theories offer a critique of an obsession with violent visuals as determinants of news. The production of visuals occurs through a multi-layered cycle of production (Huxford 2005) thus intensifying the frequency of exposure and exacerbating trauma occurrence. This paper argues that personal dispositions and experiences of visual rhetors might intervene in reactions to trauma. The data from the narrative strongly suggests a growing trend in research that focuses on trauma among journalists in the Western part of the world (Feinstein 2014; Seely 2017; Papadopoulou 2022), but little in the South. The search for creative and relevant strategies to address the crisis of mental health within newsrooms was a common thread in most of the responses collected. Mitigation could utilize strategies like de-briefing of individual experiences, innovative psycho-social approaches like talk therapies, open dialogues, and normalizing conversations on trauma. Some notions of strategies are rooted in African epistemology (Asante and Mazama 2005) that emphasizes communal and familial mental health care. The knowledge is rooted in religion, spirituality, and culture. While there were some notable interventions, they were on a small scale, therefore newsrooms should consider transitioning to more flexible alternative models for news production that are not insistent on horrific images a frame for sellable news. Sustainable and transferable strategies to address mental health among journalists will enable journalists to have control and autonomy over their occupational and personal goals. It also coincides with the need to have healthy journalists to mirror society, but also to improve the overall performance of the media industry. Newsrooms in East Africa could also learn from models such as those from the Dart Centre for Trauma Journalism Bryane (2017), Media Council's Safety and Security protocols,

and connect with valuable networks in the continent and outside to improve journalists' mental well-being.

Conclusion

The nature of journalistic work exposes them to traumatic events, including violence, crime, and conflict. Particularly in East Africa, journalists face unique challenges such as political instability, civil conflict, and censorship. These challenges lead to various mental health issues, including anxiety, depression, post-traumatic stress disorder, and sometimes substance abuse. The media industry produces traumatic events that are intricately and inherently embedded in the newsroom production process and the cycles of trauma coverage. These structural and production formats may inadvertently cause trauma and marginalize the experiences of journalists. This forms structural disadvantages within the media system. In retrospect, the element of media practitioners' well-being and overall newsroom culture is also subject to calls for the development of mechanisms to harness the mental health crisis. Research and action on journalists' mental health in East Africa is urgently required. Some steps include increasing funding and resources for mental health services; providing training and sensitization for journalists and media managers on mental health issues; creating peer support networks and counseling programs for journalists; advocating for better protection and safety measures for journalists; and raising public awareness and reducing stigma around mental health problems. By addressing the mental health needs of journalists in East Africa, media houses can improve their quality of life and enhance their professional performance. Perhaps, using a model that breaks the courtship of journalists and trauma.

References

Asante, Molefi Kete, and Ama Mazama. "African Epistemology." *In Encyclopedia of Black Studies* (Eds.) SAGE https://doi.org/10.4135/9781412952538.

Best, Sara. 2021. "Opinion:' If It Bleeds, It Leads' — The Modern Implications of an Outdated Phrase." *Pepperdine University Graphic*. Available at: https://pepperdine-graphic.com/opinion-if-it-bleeds-it-leads-the-modern-implications-of-an-outdated-phrase/.

Brayne, Mark. 2007. *Trauma and Journalism: A Guide for Editors and Managers*. Dart Center

Crouch, Mira, and Heather McKenzie. 2006. "The logic of small samples in interview-based qualitative research." *Social Science Information 45(4): 483-499.*

Brewin, Chris R., James D. Gregory, Michelle Lipton, and Neil Burgess. 2010. "Intrusive images in psychological disorders: characteristics, neural mechanisms, and treatment implications." *Psychological Review* 117, 210e232.

Byrne, Patrick, Suzanna Becker, and Neil Burgess. 2007. "Remembering the past and imagining the future: a neural model of spatial memory and imagery." *Psychological Review* 114, 340e375.

Brewin, Chris. R. 2013. "Episodic memory, perceptual memory, and their interaction: Foundations for a theory of posttraumatic stress disorder." *Psychological Bulletin.* doi:10.1037/a0033722.

Brewin. R. Chris and Neil Burgess. 2014. "Contextualization in the revised dual representation theory of PTSD: A response to Pearson and colleagues." *Journal of Behavior Therapy and Experimental Psychiatry*. Vol. 45(2014)217e219. Elsevier.

Brewin, R. Chris, Tim Dalgleish, and Stephen Joseph. 1996. "A Dual Representation Theory of Posttraumatic Stress Disorder." *Psychological Review* 103(4): 670-686.

Brummet, Barry. 1991. *Rhetorical Dimensions of Popular Culture*. Tuscaloosa University of Alabama.

Dart Center. 2023. *Covering Trauma: Impact on Journalists*. Columbia University. Available at: https://dartcenter.org/content/covering-trauma-impact-on-journalists.

Feinstein, Anthony, and Dawn Nicolson. 2005. "Embedded journalists in the Iraq war: Are they at greater psychological risk?" *Journal of Traumatic Stress 18(2): 129-132.*

Feinstein, Anthony, Blair Audet, and Elizabeth Waknine. 2014. "Witnessing images of extreme violence: a psychological study of journalists in the newsroom." *JRSM Open 5*(8): 2054270414533323.

Feinstein, Anthony, Justus Wanga, and John Owen. 2015. "The psychological effects of reporting extreme violence: a study of Kenyan journalists." *JRSM Open* 6(9): 2054270415602828.

Foss, Sonja. K. 2005. “Theory of Visual Rhetoric.” *Handbook of Visual Communication: Theory, Methods, and Media*. Eds. Ken Smith, Sandra Moriarty, Gretchen Barbatsis, and Keith Kenney. Mahwah, New Jersey: Lawrence Erlbaum. 2005. 141-52.

Frosh, Paul. 2019. “Image testimonies witnessing in times of social media.” In Schankweiler, K. and Straub, V. and Wendi, T. (eds.) *Image Testimony: Witnessing in Times of social media*. Abingdon and New York: Routledge, 2019: 121-135.

Frosh, Paul, and Amit Pinchevski. 2014. “Media witnessing and the ripeness of time.” *Cultural Studies* 28 (4):594-610, DOI: 10.1080/09502386.2014.891304.

Hill, Charles, and Marguerite Helmers. 2004. *Defining Visual Rhetoric*. 1st Edition. Routledge.

Holmes, Emily A., and Corrin Bourne. 2008. “Inducing and modulating intrusive emotional memories: a review of the trauma film paradigm.” *Acta Psychologica* 127: 553e 566.

Huxford, John. 2015. “Visual Images in the Media.” *Elsevier*. DOI: 10.1016/B978-0-08-097086-8.95041-4.

International News Safety Institute. 2014. “No story is worth dying for: INSI global inquiry into journalist safety.” Retrieved from https://newssafety.org/uploads/INSI%20Global%20Inquiry.pdf.

Keats, Patrice and Marla Buchanan. 2009. “Addressing the effects of assignment stress injury: Canadian journalists’ and photojournalists’ recommendations.” *Journalism Practice* 3(2): 162-177.

Manfred, J. 2021. *Narratology 2.3: A Guide to the Theory of Narrative*. English Department, University of Cologne. www.uni-koeln.de/~ame02/pppn.pdf.

Marsh, Emily, and Domas M. White. 2006. “Content analysis: a flexible method.” *Article in library trends· June* 2006. DOI: 10.1353/lib.2006.0053. Source: OAI.

Massé, Mark. H. 2011. *Trauma Journalism: On Deadline in harm’s way*. New York, NY: A&C Black.

Mayberry, Sean. 2021. “Four facts you didn't know about mental health in Africa.” Retrieved from https://www.weforum.org/agenda/2021/08/4-facts-mental-health-africa/.

Médecins Sans Frontiers 2019. “Displaced and distressed: people’s mental health in East Africa.” Retrieved from https://www.msf.org/displaced-and-distressed-people%E2%80%99s-mental-health-east-africa.

Media Council of Kenya. 2016. “The impact of trauma on Kenyan journalists: A baseline survey report.” Retrieved from https://www.mediacouncil.or.ke/en/mck/index.php/resources/research-reports/impact-of-trauma-on-kenyan-journalists.

Mwesigye, Peter and Okello-Orlale Rosemary. 2018. “State of the newsroom: Uganda 2018.” Retrieved from https://acme-ug.org/wp-content/uploads/2019/05/State-of-the-Newsroom-Uganda-2018.pdf.

Newman, N. 2023. “Journalism, media, and technology trends and predictions.” *Reuters Institute for the Study of Journalism.*

Papadopoulou, Lambrini, Theodora A. Maniou and Eleana Pandia. 2022. “Economic crisis and trauma journalism: Assessing the emotional toll of reporting in crisis-ridden countries.” *Communications 47(3): 350–374* https://doi.org/10.1515/commun-2020-0050.

PBS. 1999. *Yellow Journalism*. Available at: https://www.pbs.org/crucible/journalism.html.

Polkinghorne, Donald. E. 1989. “Phenomenological research methods*.” In Existential phenomenological perspectives in psychology*, pp. 41-60. Springer US.

Possetti, Julie, Emily Bell, and Peter Brown. 2023. “Journalism and the Pandemic: A Global Snapshot of Impacts.” *ICFJ and Tow Center for Digital Journalism.*

Randy Fox. 2013. *Visual rhetoric: an introduction for students of visual communication.*

RSF. 2023. “Reporters Without Borders.” *Rwanda*. https://rsf.org/en/country/rwanda.

Seely, K. Natalee. 2017. *Reporting on trauma: the psychological effects of covering tragedy and violence.* Doctoral Dissertation*.* Chapel Hill. N.C University of North Carolina.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310055

Behavioral Economics for All: From Nudging to Leadership

Julia M. Puaschunder

Columbia University, Graduate School of Arts and Sciences, 535 W 116th St #109, New York, NY 10027, Julia.Puaschunder@columbia.edu, www.juliampuaschunder.com, http://blogs.cuit.columbia.edu/jmp2265

ABSTRACT: Behavioral economics is an innovative applied science. In the 1950s economic rational choice models came under scrutiny. A theoretical critique emerged that not all human beings strive for efficiency and rationality all the time. Behavioral economics first drew attention to deviations from rationality and discussed the non-applicability of rational choice models for depicting the actual behavior of humans. During the 1970s, Amartya Sen formalized the rational choice critique and published powerful examples of how economics needs a reality check and backtesting of its core axioms of rationality, efficiency and time consistency for actual real-world relevancy and external validity of the standard rational choice claims. By 1979, the two psychologists Daniel Kahneman and Amos Tversky presented a line of laboratory experiments at universities that proved the rational choice theory to be inaccurate to explain the real-world decision-making patterns of individuals. The following behavioral economics revolution rewrote economics for accuracy and predictability for actual human day-to-day choices and behavior. Sociologists, political scientists, psychologists created a line of research to describe how individuals actually decide during the first decade of the 2000s. Behavioral insights were then used to find ways how to 'nudge' individuals, communities and leaders to help others make better choices in different domains, for instance such as finance, marketing, health and well-being. Around the world, governmental officials and governance experts adopted behavioral nudges and winks to create better choice architectures and decision-making patterns. This paper describes the history of behavioral economics with attention to North American roots and European interpretations in order to then prospect future trends in behavioral economics. First, given the enormous popularity behavioral economics has enjoyed in the most recent decades, a general knowledge has formed about behavioral nudges. Libertarian paternalism is – by now – limited when it comes to implicitly tricking people into making choices based on well-known insights. A common body of knowledge on behavioral aspects of choice patterns may lead to reactance if people notice manipulation. The general population should therefore be trained to make self-empowered choices that meet their individual principles, needs and wants based on their behavioral expertise. Behavioral economists should move from manipulating nudges to educating trainings of the layperson. Second, the field of behavioral sciences has experienced a deep replication crisis given major data cheating scandals and contemporary fraud allegations. General oversight mechanism between co-authors, backtesting of effects for validity and their general applicability is therefore warranted. he general population should be trained to be critical of behavioral insights presented to them and be encouraged by behavioral economists to feedback on the potential non-applicability of p-hacked results. Third, online searchplace distortion of behavioral economics results has become a sad reality for young behavioral economists in the strategic search engine results manipulation through Search Engine Disoptimization (SEDO). This implicit internet harassment calls for a democratization of information and whole-rounded inclusion of thoughts online. Behavioral economists should raise awareness for this negative competitive behavior and work together with global governance institutions, regulatory bodies but also industry professionals to curb negative internet search engine manipulation and empower the upcoming generation of behavioral economists to speak up when this is happening. Professional bodies should be informed to help those whose career has been hit by competitive internet manipulation. All these trends are speculated to lead to a revamped behavioral economics revolution that demands for behavioral economics for all. The future of behavioral economics is believed to lie in self-empowered leadership, not manipulation. A democratization of behavioral economics information leading to a general knowledge basis on actual behavioral patterns will guide a self-empowered decision-making cadre within the general population. Search for true and credible behavioral insights can lift the entire field to a more helpful stage to become a standing guidepost for wise quality decision-making. The digital millennium calling for fair internet use will hopefully prosper an inclusive and diversified information on behavioral insights to be accessible, useful and meaningful for all.

KEYWORDS: Behavioral Economics, Behavioral Finance, Behavioral Insights, Behavioral Revolution, Decision Making, Democratization, Economics, Future Trends, Human Rights Online, Law, Law & Economics, Leadership, Public Policy, Search Engine Disoptimization, Searchplace Discrimination, Winks

Introduction

Behavioral economics is the study of economics with respect to real-world relevant choice patterns. The field of behavioral economics evolved out of a theoretical critique and mathematical formalization of social aspects of standard neoclassical economics. Laboratory and field experiments, as well as big data and online surveys have become hallmarks of behavioral methodology to imbue practicability and accuracy in economic descriptions of human choices. Behavioral insights use behavioral economics results in order to derive recommendations on how people can make better decisions. Behavioral economists thereby create a choice architecture that implicitly nudges and winks the general populace in a favorable way.

Historically, two behavioral schools have been formed in the United States and Europe. The schools differ in the perception of decision-making heuristics as mental shortcuts. The North American school sees these quick decisions as biases that behavioral economics should help people overcome or curb by a strategic manipulation of the environment and their choice settings. The European tradition rather argues for heuristics being an evolutionary-grown decision-making aid. Most recently replication crises have taken a toll on the credibility of behavioral economics studies. In the age of digitalization, behavioral economists appear to have turned against each other in competitive searchplace manipulation strategies.

This paper captures three contemporary trends in behavioral economics and an outlook on how the field may evolve in the future. The first expected change may occur due to the fact that behavioral economics has become a widespread applied field. Many of the surprising effects are by now well-known and biases are well-controlled in the field. This general knowledge of behavioral insights will likely drive people's reactance – in not responding according to the behavioral economics' plan *per se* to maintain decision-making autonomy – if catching libertarian paternalism manipulations of the environment.

With the widespread replication crisis shaking the grounds of behavioral economics, the time is ripe to rewin the audience by empowering individuals to make choices that fit their choice propensities and preferences. In this kind of democratization of decision-making, people are best advised to feel self-entitled and empowered to use known behavioral insights wisely for themselves to make preferred choices according to their individual needs and wants.

In the digital millennium, online searchplaces – like Google, Bing, Yahoo, Yandex… – have become prominent places to look for information. Online search engines by now also have become powerful market tools that determine careers. In the most recent upheaval about internet representation of behavioral economics, it apparent becomes that behavioral extensions in the virtual world are needed in order to cope with the impact of computer systems on human health and well-being. In future attention to online searchplace discrimination against behavioral economists, the field may find self-correcting mechanisms for those whose career has taken a hit unethically.

This paper is structured as follows: First, a snapshot of the history and evolvement of behavioral economics is given. Second, three trends are scrutinized in behavioral economics: The overall prominence of behavioral economics leading to widespread knowledge of nudges warrants to drop libertarian paternalism for self-empowered, individualized decision-making. Second, the ongoing replication crisis will likely change the field for oversight control among co-authors. Quality control via backtesting but also empowerment to self-scrutinize behavioral insights when being applied are future advancements that can help catch fraudulent and dishonest behavior faster and easier. Third, the ongoing searchplace distortion against behavioral economists in standard search engines will likely trigger awareness for destructive

manipulation of internet settings in 'rebel nudges' that have gone wild and have turned against their own community. The discussion concerns future advancement potential and limitations of the field. Overall, all these prospective changes will likely transform the field of behavioral sciences and the entire community of behavioral scientists into a better and more inclusive scientific spearhead.

Behavioral economics

History

Traditional economics was built on the foundations that all human beings constantly strive for efficiency and rationality. The most innovative revolution in the field of economics was the behavioral economics opening of choice architectures. In the 1950s a theoretical critique of standard neoclassical rational choice models started that first emphasized attention to deviations from rationality (Simon 1956; Simon & Bartel 1986). Early theoretical writings drew from real-world examples to prove the non-applicability of rational choice models for predicting the actual behavior of humans (Simon 1956; Simon & Bartel 1986).

During the 1970s, Amartya Sen (1971, 1977) formalized the rational choice critique mathematically. Publishing a line of powerful examples of how economics deviates from what actually happens in real-world settings emphasized the need for a reality check in economics. Backtesting of economic core axioms – such as rationality, efficiency and time consistency – for actual real-world relevancy was meant to improve the external validity of economic stylized models (Sen 1971, 1977). In subsequent work over decades, Amartya Sen debunked some of the major hallmarks of economic science assumptions, such as rational choice, independent decision making and constant maximization of utility (Sen 1993, 2002a, b).

By the late 1970s, the two psychologists Daniel Kahneman and Amos Tversky presented a line of university laboratory experiments that proved the rational choice theory to be inaccurate in explaining actual decision-making patterns of individuals (Kahneman & Tversky 1979). Standard neoclassical economics was dwarfed to be a stylized caricature of how people actually behave. The following 1980s and 1990s saw a revolution of behavioral aspects for economic sciences (Kahneman & Tversky 1983, 1992; Kahneman, Knetsch & Thaler 1991). First laboratory experiments at universities but later also field experiments became the norm to cartograph a new order by which humans are behaviorally-economic. Behavioral economics proved that people often strive for efficiency and economic ideals, but in reality, oftentimes muddle through a complex world and thereby take the best alternative at hand or oftentimes do not place a favorable choice at all (Kahneman & Tversky 2000).

Heuristics

In the first wave of behavioral economics, a multitude of heuristics were described as decision-making deviations from rationality. For instance, in times of heightened uncertainty and cognitive constraints, people were found to take-the-best in choosing the alternative based on the first cue that discriminates between a multitude of choices. Gaze describes gut reactions and focus on one task, which can lead people to quickly jump to conclusions without proper rational and elaborate decision-making.

People were also found to be highly susceptible to the environment, in which they operate. A scarcity effect was captured in the overestimation of value based on limited choices. Framing held that the way options are presented – in either a positive or a negative frame – could powerfully guide decisions. Dependence on unrelated external environmental factors was proven in a multitude of behavioral economics experiments and studies. Our choices heavily depend on our emotions and mood, but also the weather and external factors such as color, hygiene and overall sight. The primacy and recency effect describes that the first and last choice of a set of alternatives gets extra attention. Social aspects like status implicitly guide

our choices, likely based on comparisons with each other. Social norms and trust play a role in leading decisions unnoticingly as well, which accumulates to herd behavior that was shown to influence financial markets and therefore overall economic outcomes. Social proof is another way people infer the actions of others in a role model learning of behavior that transpires to everyday actions. Contagion of previous unrelated content bleeding into decisions is another environmental factor that influences behavioral patterns in the economy. Even minor changes in the environment, such as heat or color, can change decisions. Especially emotions, affects and overall moods can play an underestimated role in choices.

The closeness of information appears to determine events. For instance, unrelated dropping of numbers may lead to over- or underestimations according to the anchor that was set. If news events are more available, the likelihood of occurrence gets overrated. Representativeness in the repetitive exposure of cues to a typical representation triggers learning of attributes to often occur together. This learned bunding can lead to stereotypes. The negative effects of jumping to conclusions and assigning wrong attributes to the individual based on representativeness can be curbed by joint decision-making when placing two alternatives physically next to each other rather than evaluating them one by one. Familiarity further exacerbates given perceptions and representativeness learning. The more familiar one becomes with an object, the more entrenched the bundling of attitudes with the object becomes. Familiarity drives positive or negative attitudes. If familiarity pertains to the self, positive attributes tend to prevail. For instance, one seems to have a natural inclination towards those whose first name starts with the same letter as one's own first name. This familiarity effect gets stronger when people are exposed to cognitive load. The similarity heuristic also extends to objects that are the same as oneself. All these closeness heuristics are believed to underlie prototypes and stereotypes. Travels to places that have unfamiliar content but also situations that push one out of one's comfort zone are effective strategies to broaden one's horizon and lower negative consequences of stereotyping, such as tunnel visions.

One's personal history influences choices. Effort heightens the perception of value. The harder one works for an accomplishment, the more it is valued. The fluency of contents to be remembered solidifies their presence in the options range. Recognition when contents can be accessed through memories also enhances the perception of options being existent. Simulation increases the likelihood estimation of events based on how easily they can be pictured mentally. Previous exposure to these events will impact simulation likelihoods positively. The endowment effect outlines that if one acquires an object, the value perception increases. This is even the case for windfall gifts one did not want or anticipate. Sunk costs speak to people trying to reclaim lost values and thereby oftentimes become irrationally stuck in repetitive patterns. Casinos live off sunk costs as people gaming tend to try to reclaim lost values and continue playing beyond their means or initial plans. Preference reversal occurs when people are planning rationally for the future but give in to emotional choices that are different from their actual plans in the heat of the moment. This reversal of rational for emotional choices can be found in many instances of life, such as, for example, food choice, sports discipline and entertainment preferences. Preference reversal can be curbed with joint decisions that bundle alternatives physically and temporally closer to each other.

In the extension of behavioral economics into the finance domain, discounting theory has been fortified for now presence moments. Hyperbolic discounting holds that we all are more focused on the current moment rather than ruminating about the past or planning for the future. This tendency to focus on the now also goes together with hyperbolic discounting indicating that individuals overvalue the current state over all others as the past cannot be changed anymore and the future holds too much overall risk. Behavioral finance also educates about diversifying nudges in different behavioral approaches used concurrently to maximize outcomes. The availability of information also plays a major role in behavioral finance. As does the quality of information and the perception of the quality of information based on the

subjective evaluation of information sources. Good news and bad news but also the framing of reporting appear to be critical influences on choice patterns. Behavioral finance also applies behavioral economics insights about exposure to information in deriving inferences for market action. If there is too much information on financial markets, a market buzz and noise are created that may be harmful. Too little information in markets can freeze market action as everyone is waiting for more information cues and the others to act first. The timing of information plays a critical role in behavioral finance. Firm-biased information speaks about the close environmental impact on finance choices. Social influences and crowd phenomena are prominent topics in behavioral finance. Attributes of influential leaders in the field of finance are discussed from a psychological aspect. Social norms and social reference groups are important for financial decisions.

Traditions

Within behavioral economics, two schools emerged. The North American tradition is more renowned for having started the critique of traditional rational choice models. North American scholars drove the mathematical formalization and developed powerful and rigorous models in well-curated and ethical laboratory settings. The European school shined on theoretical contributions and historic political economy aspects in bringing in different fields and viewpoints into the critique of standard neoclassical economic hallmarks.

The North American school tried to cartograph biases and so-called heuristics – which were perceived as decision-making deviations from the optimum – in order to eradicate these behavioral failures from aspirational stylized economic model optimizations. North American behavioral economists became leaders-in-the-field of correcting human biases. The North American contribution targeted at helping people become more economic rational agents in standardized methods, such as controlled university laboratory experiments, survey studies, field experiments and online panels.

The European school was comparatively more heterodox in its rigor, allowing for many different angles of multiple fields to contribute with their own methods. European behavioral economists also took a more evolutionary stance on behavioral choices, arguing that evolutionary-grown decision shortcuts are helpful in coping with a complex world of uncertainty. Quick decision-making of humans was seen as a way to ease mental overload and an evolutionary adaption to cognitive capacity constraints. Both sides appear to have valid points solidified in theory and data.

Both approaches unite in Kahneman's (2011) thinking fast and slow decision model, which argues for wise decision makers being experts in choosing when to take time for deliberate choices and correct for biases with rational deliberation or when to jump into conclusions fast and easily. For instance, the decision of what to eat and whom to marry may take two different approaches as the long-term impact, payoff outcomes and risks involved are different as well. Those who are well-calibrated or trained to pick the right dose of rational deliberate choices and fast gut decisions attuned to the situation are believed to have overall better life outcomes (Kahneman 2011).

Evolution

The behavioral economics revolution stemmed from academics that heroically contested and rewrote economics for accuracy and predictability of the actual exhibited human behavior (Kahneman & Tversky 2000). Many different disciplines contributed to the changing of economics for reality. Behavioral economics today bundles the insights of different disciplines to describe human behavior striving for efficiency with accuracy and predictability. Nine Nobel Prizes crowned the accomplishment of those who prepared the field for a widespread behavioral economics solution: The political scientist Herbert Simon (1978) was the first to start addressing issues of traditional neoclassical economic models in applying psychological

concepts to economic choices. Economist Amartya Sen (1998) received a Nobel Prize in Economics for his work on the possibility of social choice that prepared the theoretical and formalized critique of rational choice theory integrating social aspects. Sociologist George Akerlof (2001) captured behavioral finance and crowd behavior in imperfect markets. Behavioral economists Daniel Kahneman and Vernon L. Smith (2002) started the field 'behavioral economics' with powerful evidence from laboratory experiments that proved human choice patterns deviate from rational choice models. Political scientist Elinor Ostrom (2009) outlined the impact of collective decision-making in groups for the governing of global commons. Behavioral finance was acknowledged with a Nobel Prize in 2013, when Robert Shiller, Eugene Fama and Lars Peter Hansen were accoladed for their work about why markets are not efficient (Nobel Prize 2013). Richard Thaler (2017) enlightened the field with insights on mental discounting and how to change behavior in 'nudges' – subliminal hints to help people make more rational and wise choices over time. In their entirety, all Behavioral Economics-attributed Nobel prizes rewrote economics. No other economics field has gotten as many Nobel prizes as behavioral economics. Pursuing a goal to find ways to 'nudge' individuals, communities and – most recently – leaders was meant to help others make better choices by the guidance of behavioral insights (Akerlof 2001; Kahneman 2008; Nobel Prize 2002; Ostrom 2009; Puaschunder 2020; Thaler 2017; Thaler & Sunstein 2008).

As for the evaluation of the overall field of behavioral economics, one has to admit that the field is rather young. It is too early to tell how influential the ideas will become over time and how lasting the effects will change a multitude of human behavioral patterns and therefore society. From around 2010 on, critique of the behavioral approach mainly concerned the method. Small-scale laboratory experiments on university campuses were scrutinized. The term 'p-hacking' was coined to address data falsification through omission and methodological tweaks to get conditions running in the expected way. Some of the biggest names in the field and rising stars in behavioral science became entangled in the so-called replication crisis – addressing problems of replicating well-covered behavioral science effects. The largess of these scandals has potentially triggered a widespread shift and change in the field that will transform behavioral economics as never practiced before.

The future of Behavioral Economics

Future trends in behavioral economics are prospected to be driven by the popularity of the field, replication crises in behavioral sciences as well as the advent of digitalized markets.

Libertarian paternalism is dead for educated, self-determined decision-makers

First, given the enormous popularity behavioral economics has enjoyed in the most recent decades, a general knowledge has formed about behavioral nudges. Libertarian paternalism is – by now – limited when it comes to implicitly tricking people into making choices based on well-known insights. A common body of knowledge on behavioral aspects of choice patterns may lead to reactance if people notice manipulation. People may want to refrain from being changed with nudges, just for the sake of maintaining their own decision-making volition. A similar effect has been proven in advertisement studies before. Once people notice that this is a commercial and especially when the commercial is kind of annoying, people *per se* refrain from behaving the way as wished for by the advertiser. Just for the sake of maintaining their own decision-making power and free will, they will digress from what the advertisement company targets them to do. This is also why concepts like product placement – the content-pegged weaving in of commercials into films and shows – has become prominent as an alternative way to advertise. Similarly, neurolinguistic programming evolved. First, neurolinguistic programming was inspired by psychiatrists who found that when aligning the body with their client or mirroring the body posture this could help establish accord and better

therapy outcomes. Neurolinguistic programming was then used to manipulate positive outcomes of negotiations. For instance, in job interviews or salary negotiations the strategic alignment of the body with the interviewer or the negotiation sparring partner was recommended for a while. Once the effect became known more broadly, however, people refrained from being compliant or showing extraordinary accord levels. It is assumed that the feeling of manipulation around neurolinguistic programming may have created some reactance, which then led to worse outcomes than without neurolinguistic programming. In many settings and instances, therefore, today neurolinguistic alignment of body postures is not recommended anymore. Behavioral economics is assumed to have a similar evolution from being a powerful implicit manipulation to becoming too mainstream to drive behavior effectively if people perceive it as an infringement on their own volition and degrading their decision-making power and free choice authority.

The general population should therefore be trained to make self-empowered choices that meet their individual principles, needs and wants based on their behavioral expertise. Behavioral economists should move from manipulating nudges to encouraging, educating and training the layperson to make their own decisions while being knowledgeable about heuristics and conscientious about the decision-making depths and breadth requirement of the situation.

Replication crisis triggering empowered decision-makers backtesting of behavioral insights

Second, the field of behavioral sciences has experienced a deep replication crisis given major data cheating scandals and contemporary fraud allegations. Starting with the early 2010s, self-correction mechanisms in science, like rerunning behavioral economic experiments, surveys and field studies, contested the state-of-the-art data collection and generated behavioral economics results. The replication crisis in behavioral sciences addresses detected data fraud but also calls out so-called 'p-hacking' in the strategic manipulation of research design, sampling and methods for obtaining personally favorable, desired results in line with one's own hypothesis. Fraud and data manipulation scandals shook the field of behavioral sciences. Not only the questionable rigor of studies and self-serving biases corrupting results but also the persistence in making arguments counter-running data results became subject to a wide critique and international media scrutiny in behavioral economics. Scandals and manipulation led to ridicule and disapproval in the public perception of behavioral science approaches. The most recent data fraud allegation has triggered a task force of over 150 scholars trying to find ways to avert the negative downfalls of behavioral economics rebel talents that trigger replication crises. In addition, the international media coverage of a current data fraud allegation in behavioral sciences has also steered an almost 3000 donors' strong community that stands for academic freedom on data replication and scientific debate about research design and sample acquisition.

In the wake of all these developments, currently developing general oversight mechanisms include checks-and-balances between co-authors sharing data and self-correcting academic freedom protection. Among researchers clear guidelines should be established on how to run behavioral experiments and surveys. Data checks could be enacted via mandatory pre-registration of studies and access to data mandates. The role of data sharing inbetween co-authors should be generalized and clear structures established. Researchers could collaborate on blind retest endeavors to rerun studies before being published. The general population should be encouraged to question behavioral insights and backtest results for their external validity. Education could verse people to be critical of behavioral insights presented to them and backtest the validity of findings. Behavioral economists should be trained to feedback on the non-applicability of p-hacked results. Replication studies deserve more attention and accolades as self-correcting measures within the community. Whistleblower protection of individuals calling out data fraud can improve the validity of concepts in behavioral economics. Databases could organize backtested results and speed up fraud detection in an organized way.

Communication channels should be curated in order to give a voice to those who detect questionable research. Lastly, funds should be collected and set aside as a crisis and emergency protection if fraudulent research has depleted scarce resources – e.g. if governments have allocated funds towards implementing fraudulent research results – but also if the career of scientists who had the courage to speak up against unethical conduct got hit due to missing whistleblower protection.

Online searchplace discrimination of behavioral economists

In the wake of the digitalization revolution, online searchplace distortion of behavioral economics results has become a sad reality for young behavioral economists. Strategic search engine results manipulation through Search Engine Disoptimization (SEDO) has evolved a competitive market behavior by which search results displayed in Google, Bing, Yahoo and other search engines get distorted in favor of only some star behavioral economists. This implicit internet harassment calls for a democratization of information and whole-rounded inclusion of thoughts online. Strategic searchplace distortion causes a one-sided overemphasis of some ideas that crowds out fair competition and – above all – inspiring scientific dialogue that lives off diversification and creativity. Science can only advance in the discourse and the youthful stimulation of new ideas. Innovation is infringed upon if only an oligopolistic mirage is created online that does not give credit to young upcoming behavioral economists.

Behavioral economists should raise awareness of this trend and work together with global governance institutions, regulatory bodies but also industry professionals to curb negative internet search engine manipulation. The upcoming generation of behavioral economics should be encouraged by their direct mentors and networks to speak up when they suspect searchplace distortion. Professional bodies should be informed to help those whose career has been hit by competitive internet manipulation. Professional associations should include online manipulation in their repertories and databases about harassment in order to detect pockets of viral distortions within academia and call out academic units that engage in such unethical action. Setting aside funds to help academics whose career has taken a hit due to online search content manipulation is another way to curb this harmful behavior and protect from the negative consequences of this rebel competition. Igniting public discourse on this sensitive matter may help crowd out the downsides of internet competitive behavior. All these measures are meant to lead to a democratization of information and the inclusion of thoughts in behavioral economics.

Discussion

All these trends are speculated to lead to a revamped behavioral economics revolution that demands behavioral economics for all. In their entirety these trends are assumed to herald a major shift in behavioral science conduct. The future of behavioral economics is believed to lie in self-empowered leadership, not manipulation. A democratization of behavioral economics information leading to a general knowledge basis on actual behavioral patterns will guide a self-empowered decision-making cadre within the general population. After all, a renaissance of behavioral economics can live from a noble search for truth. The anticipated and recommended changes implemented promise the potential to lift the entire field to a more helpful stage to maintain a leading field of sciences. Generating more credible behavioral insights will serve behavioral economics' general acceptance as a guidepost for wise quality decision-making. The digital millennium calling for fair internet use will hopefully prosper an inclusive and diversified information on behavioral insights of the future to be even more accessible, useful and meaningful for all.

References

Akerlof, George A. 2001. Nobel Prize Lecture: Behavioral Macroeconomics and Macroeconomic Behavior. December 8, 2001, Aula Magna, Stockholm University. https://www.nobelprize.org/prizes/economic-sciences/2001/akerlof/lecture/

Kahneman, Daniel. 2011. Thinking, fast and slow. New York: Farrer, Straus & Giroux.

Kahneman, Daniel, Knetsch Jack L, and Thaler Richard H . 1991. "The endowment effect, loss aversion, and status quo bias." *Journal of Economic Perspectives* 5(12): 1325–47.

Kahneman, Daniel, and Tversky Amos. 1979. "Prospect theory: An analysis of decision under risk." *Econometrica* 47(2): 263-91.

Kahneman, Daniel, and Tversky Amos. 1983. "Choices, values, and frames." *American Psychologist* 39(4): 341-50.

Kahneman, Daniel, and Tversky Amos. 1992. "Advances in prospect theory: Cumulative representation of uncertainty." *Journal of Risk and Uncertainty* 5: 297-324.

Kahneman, Daniel, and Tversky Amos. 2000. *Choices, Values, and Frames*. Cambridge University Press, Cambridge.

Nobel Prize. 2002. The Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel 2002. https://www.nobelprize.org/prizes/economic-sciences/2002/summary/.

Nobel Prize. 2013. The Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel 2013. https://www.nobelprize.org/prizes/economic-sciences/2013/summary/.

Ostrom, Elinor. 2008. Nobel Prize Lecture: Beyond Markets and States: Polycentric Governance of Complex Economic Systems. 8 December 2009 at Aula Magna, Stockholm University. https://www.nobelprize.org/prizes/economic-sciences/2009/ostrom/lecture/.

Puaschunder, Julia M. 2020. *Behavioral economics and finance leadership: Nudging and winking to make better choices*. Cham: Springer Nature.

Sen, Amartya K. 1971. "Choice functions and revealed preference." *The Review of Economic Studies* 38 (3): 307-17.

Sen, Amartya K. 1977. "Rational fools: A critique of the behavioral foundations of economic theory." *Philosophy & Public Affairs* 6(4) 317-44.

Sen, Amartya K. 1993. "Internal consistency of choice." *Econometrica* 61(3): 495-521.

Sen, Amartya K. 1998. "The Possibility of Social Choice." Lecture to the memory of Alfred Nobel, December 8, 1998. https://www.nobelprize.org/prizes/economic-sciences/1998/sen/lecture/.

Sen, Amartya K. 2002a. "Consistency of choice." In: Sen AK (ed.), *Rationality and Freedom*, pp 207-24. Cambridge, MA: Harvard University Press.

Sen, Amartya K. 2002b. "Goals, commitment, and identity." In: Sen AK (ed.), *Rationality and Freedom*, pp 35-56. Cambridge, MA: Harvard University Press.

Simon, Herbert A. 1956. "Rational Choice and the Structure of the Environment." *Psychological Review* 63 (2): 129-38.

Simon, Herbert A. 1978. "Nobel Prize Lecture: Rational decision-making in business organizations." Nobel Memorial Lecture, 8 December, 1978. https://www.nobelprize.org/uploads/2018/06/simon-lecture.pdf.

Simon, Herbert A, and Bartel Richard D. 1986. "The failure of armchair economics." *Challenge* 29 (5): 18-25.

Thaler, Richard H. 2017. "Nobel Prize Lecture: From Cashews to Nudges: The Evolution of Behavioral Economics." 8 December 2017 at the Aula Magna, Stockholm University. https://www.nobelprize.org/prizes/economic-sciences/2017/thaler/lecture/.

Thaler, Richard H, Sunstein, and Cass R. 2008. *Nudge: Improving decisions about health, wealth, and happiness*. New Haven: Yale University Press.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310057

Improving Spiritual Care to Bridge the Gap Between Demand and Supply of Healthcare Services in South Africa

Daniel Orogun

Senior Postdoctoral Research Fellow, Department of Religion Studies, Faculty of Theology and Religion, University of Pretoria, South Africa, arcorogun2@gmail.com

ABSTRACT: This article assesses the efficacy and sufficiency of spiritual care and calls for deliberate improvement to bridge the gap between the overwhelming demand and depleting supply of healthcare services in South Africa. Without disregard for other spiritual care groups, this article investigates the activities of healthcare chaplains and a few healthcare organizations in two municipalities in Gauteng which are Johannesburg and Tshwane. As a primary source, a mixed research method was used to collect data from healthcare chaplains, nursing managers, and hospital human resource managers. The outcome agrees with the global statistics that healthcare demand is rising while its supply is depleting. This leads to the question of necessary alternatives to bridge the gap between healthcare demand and supply. Consequently, this article recommends that healthcare chaplaincies, government health departments, healthcare organizations, theological institutions, community leaders, and healthcare professionals should pay more attention to improved spiritual care as an essential alternative support system in healthcare services.

KEYWORDS: Chaplaincy, demand, supply, efficacy, sufficiency, spiritual care

Background

There is a growing concern across the globe regarding the overwhelming demand and the depleting supply of services in the healthcare sector. The sector encompasses healthcare products and services, which includes many industries, sub-industries, and a variation of companies like healthcare services group, pharmaceuticals, biotechnology, equipment, distribution, facilities, and managed care (Ledesma, McCulloh, Wieck, and Yang 2015, 1-9). Among all, there is a growing concern in the healthcare services sector where the gap between the healthcare supply by healthcare professionals and the demand of the populace is increasing. For example, in mental healthcare, the fact sheet of World Health Organisation (WHO) shows that over 300 million people across the globe, regardless of region, culture, age, gender, religion, race, and economic status, had mental illness leading to depression and disability (WHO 2017). In Africa, WHO (2022) submits that above 75% of people suffering from mental healthcare conditions (MHCs) do not receive treatment (cf. Naylor et al. 2012). Further, WHO (2022) indicates that about 5 million annual deaths are caused by MHCs in low and middle-income countries like South Africa (cf. Mayosi et al. 2012, 380). In a similar report, depression has about 100 million victims in Africa, out of which 66 million are women (World Economic Forum [WEC] 2021). In addition, the World Bank opines that MHCs remain "The greatest thief of productive economic life" (WEC 2021). This comes with global economic costs of about 2.5 to 8.5 trillion dollars yearly, likely doubling by 2030. Agreeing further, WHO (2022) maintains that many mental health conditions can be effectively treated at a low cost. Yet, the gap between people needing care and those with access to care remains substantial. Thus, adequate treatment coverage remains extremely low (Caron 2021; Single Care Team 2022). According to Michas (2022), statistics show that in 2020, approximately 4 Nurses, 2 Psychiatrists, 1 Psychologist, 1 Social worker, and 1 other (Spiritual caregiver) are

the available mental healthcare workforce per 100,000 population. This figure supports the gap between the demand and supply of healthcare and the prevalence of healthcare inequality in today's world.

In primary healthcare, the South African private sector serves about 20% of the population via private health insurance, private hospitals, and modern facilities comparable to the best in the world. This leaves 80% of the South African population struggling with public sector services (RBS HCM Module 2016, 27). The shortage of public sector infrastructure is also caused by dilapidating health facilities. Likewise, financial mismanagement in health sector governance caused high medical inflation and a threat to medical insurance schemes. Aikman (2019, 53) reports that the Minister of Finance, Tito Mboweni, announced in South Africa's budget for the 2019/2020 financial year that the health department would receive ZAR222.6 billion, which is a large portion of the budget (cf. PricewaterhouseCoopers 2019). Despite these funds, South Africa's public hospitals are still under-equipped due to corruption, wasteful and fruitless expenditures. These practices are incongruent with government policies but only benefit specific individuals and their families. Furthermore, the 2017/2018 South Africa auditor general's report shows that only 25% of government departments received clean audits (Parliament Monitoring Group 2018). With such a poor accounts report, it can be inferred that financial misappropriation may increase the gap between the demand and supply of healthcare in South Africa (South African National Department of Health 2012).

Correspondingly, reports show long waiting times before patients see Doctors and Nurses, especially in public hospitals. Sadly, the population is consistently growing, but hospitals cannot meet healthcare demands (Trading Economics 2018). Although the flooding of South African hospitals by undocumented immigrants is seen as part of the reasons for the demand and supply crisis, no research supports such a claim. In the counterargument of Zulu (2019), it is more difficult for sick patients to migrate long distances. Meanwhile, the overcrowding of hospitals puts more people at risk of infections, causes a waste of time and extra transport costs on the side of the patients (Aikman 2019, 53). Lastly, there are limited healthcare professionals such as Radiographers, Physiotherapists, Nurses, Spiritual caregivers, and Traditional healers to facilitate primary healthcare. Bezuidenhout Joubert, Hiemstra, Struwig (2009, 211-15), and Medical Brief (2016) report the exodus of healthcare professionals. Reasons for national Doctors' and Nurses' outflow include a lack of finance, a quest for better job opportunities with commensurate remunerations, a high crime rate in the country, and poor training and development of new healthcare workers.

The background challenges discussed above increase the demand and supply gap of healthcare services in South Africa. The question then is – how can spiritual care through healthcare chaplaincy be improved as one of the bridges to reduce the gap in South Africa? Answering this question is the goal of this paper. This article presents evidence of the relevance of healthcare chaplaincy through primary source data obtained via quantitative methods from Pharma Valu Pharmacy and Clinics (PVPC). This is followed by qualitative data reports from Mediclinic and chaplaincy organizations, including Medical and Community Chaplaincy (MCC) and Emergency Services Chaplaincy of Southern Africa (ESCSA). Subsequently, the article presents data results vis-à-vis discussions on healthcare chaplaincy's efficiency, sufficiency, and challenges. Lastly, this article recommends improved spiritual care to bridge the gap between the demand and supply of healthcare in South Africa.

Method

A mixed research method that includes quantitative and qualitative data collection was used to gather information on how spiritual care is supplied to patients, their families, and healthcare workers in Tshwane and Johannesburg municipalities. The quantitative data were collected using seven questions (Q) via a Google survey questionnaire from Pharma Valu Pharmacy and

Clinics (PVPC) in Pretoria. The data was analyzed using Radar and Waterfall chats. On the other hand, the quantitative data via one-on-one interviews were gathered from PVPC, Mediclinic, MCC, and ESCSA.

Quantitative Results

The human resource (HR) and the store managers' reports show that PVPC is an over 20-year-old sub-health organization providing pharmaceutical and mini-clinic healthcare support with about 260 staff in South Africa. Since its inception, the organization has imbibed the culture of providing spiritual wellness to staff members using the services of chaplains in daily morning devotion. Seventy (70) staff members of PVPC participated in this spiritual wellness survey. With 260 staff, the sample population is about 37%. This percentage implies that participation exceeds the minimum sample population (5%) required. It then reflects research accuracy in terms of the efficacy of healthcare chaplains in PVPC. The data was collected from the two biggest PVPC branches, Queenswood and Sunnyside. See the outcome in Table 1 and Figures 1-3 below.

Table 1 – Spiritual care impact of morning devotion led by Chaplains in PVPC

Q	*Impact subject*	*Yes*	*No*	*Maybe*	*Not sure*
Q1	The desire for chaplaincy services by staff members	85.7	7.1	-	7.1
Q2	Impact of devotion on work motivation	90	1.4	8.6	-
Q3	Attraction (Chaplains' message, bible reading, prayers)	100	-	-	-
Q4	Wellbeing impact (Psycho-social)	84.3	4.3	8.6	2.9
Q5	The continuous desire for chaplaincy support in devotion	91.4	1.4	4.3	2.9
Q6	Impact on good customer service and staff interaction	89.9	-	-	10.1
Q7	Spiritual wellness impact on the business success	67.1	2.9	20	10

A. The desire for Spiritual Support (Q1, 3 and 5): Table 1 above shows that Questions (Q) 1, 3 and 5 are tailored towards discovering the staff's desire for spiritual wellness support.

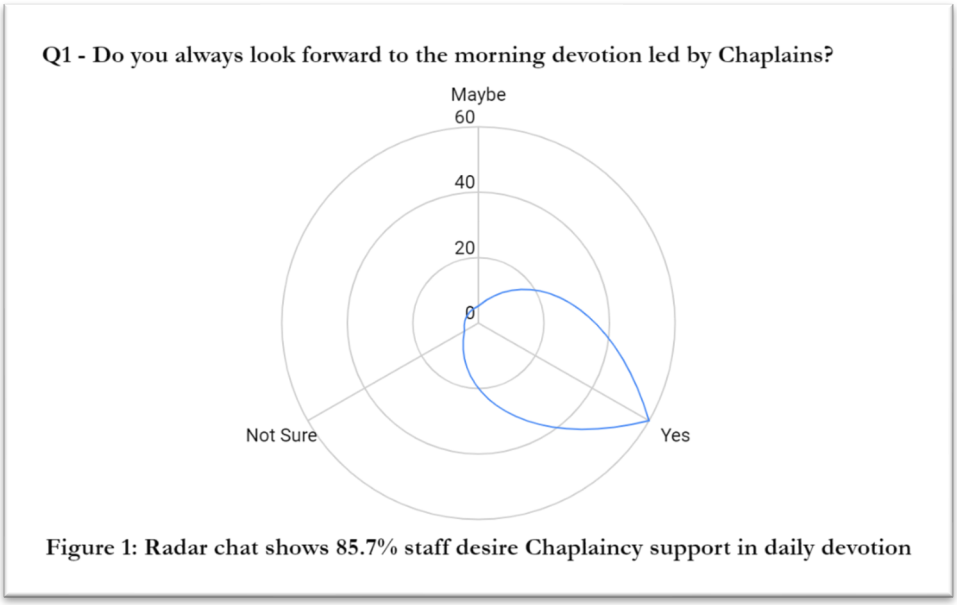

Figure 1: Radar chat shows 85.7% staff desire Chaplaincy support in daily devotion

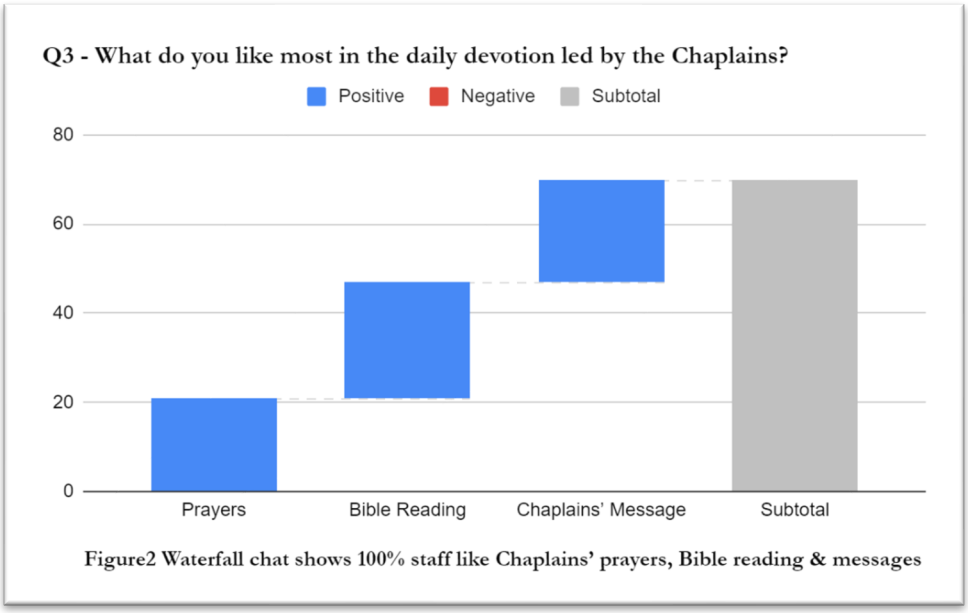

Figure2 Waterfall chat shows 100% staff like Chaplains' prayers, Bible reading & messages

Figures 1 and 2 above reveal that 85.7% appreciate the Chaplain's spiritual wellness support, and more importantly, almost 100% of the staff appreciate the Chaplain's messages (32.9%), bible reading (37.1%), and prayers (30%). This shows that healthcare chaplaincy is indeed relevant.

B. Psychosocial Impact (Q4 and 6): Table 1 above shows that spiritual care in PVPC promotes the psychological and social well-being of over 84% of staff. Figure 3 below reveals that about 89% of staff enjoy psychosocial wellness from spiritual wellness activities. Consequently, the spiritual wellness program engenders good customer service and quality workplace interaction among staff. It also has a business impact because where good customer service and smooth interdepartmental interaction occur, business thrives easily.

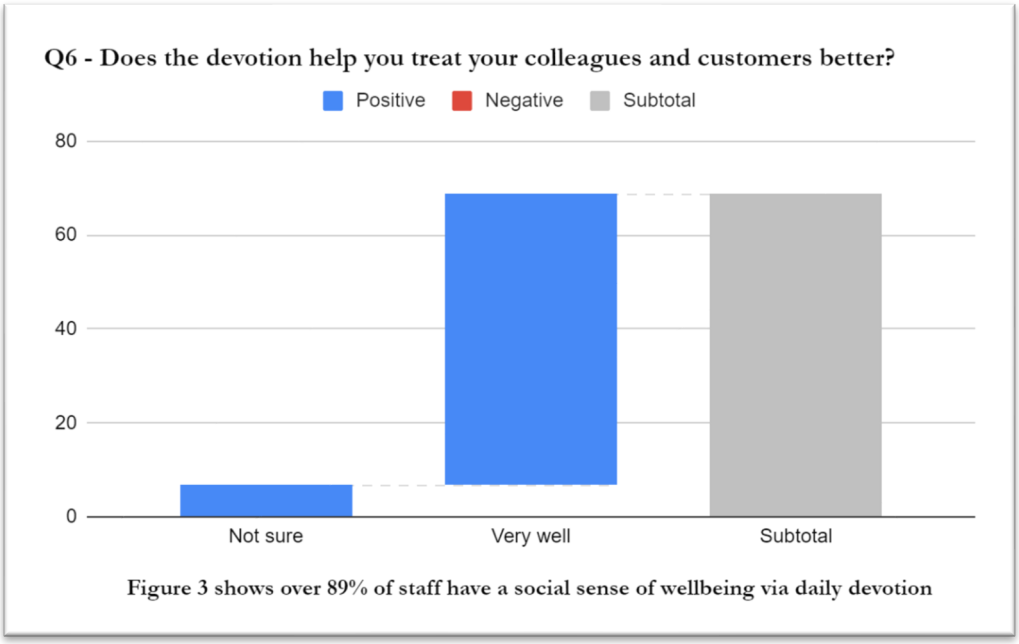

Figure 3 shows over 89% of staff have a social sense of wellbeing via daily devotion

C. Business Success Impact (Q2 and 7): Question 2 in Table 1 above shows that PVPC staff are motivated to work after morning devotion. Likewise, about 67.1% agree that it promotes business success and profit. This data implies that the spiritual wellness of staff can enhance

successful business. Since profit is the hallmark of a successful business, this article infers that spiritual wellness is part of the total package of profit-making.

Additionally, question 5 in Table 1 above shows that 1.7% (1) staff among the 70 respondents does not have a continuous desire for daily devotion, while three (3) are unsure. This shows there may be non-Christian staff members in PVPC. It may also represent the fact that regardless of PVPC's Christian corporate culture, it promotes inclusivity in employment; staff are employed irrespective of their religious affiliation.

Qualitative Result

A. PVPC: The quantitative research outcome above agrees with the HR and store managers' report, suggesting that daily devotion with Chaplains creates spiritual and social wellness. The HR manager stated that "It brings staff together feeling wanted and part of a group as they all share the same devotion working together in God's business." The store manager also asserted that the CEO (Hanes Strydom) insist that as part of corporate culture, all branches must open every day with a daily devotion. Further, in the store manager's words, "Some of our staff leave home very early, like 4 a.m., and return home late in the evening. So, the devotion at work gives them the time to do their prayers regardless of the crazy work hours. It also brings the people together and improves staff's spirits and well-being".

B. Mediclinic: This organisation is the third largest private healthcare provider in Southern Africa, with about 50 hospitals and five sub-acute hospitals (Mediclinic Group, 2023). This research was conducted in 2 branches of Mediclinic in Tshwane. The data obtained is sufficient for accurate research results on the background that Mediclinic, as a brand across South Africa, has a shared corporate culture. Four (4) questions were administered to HR managers with a focus on how chaplains are accommodated, policy guiding Chaplains' interaction with patients and staff, challenges with allowing Chaplains to provide spiritual wellness in the hospitals, and daily devotion for staff wellness. The research outcome shows that, firstly, Mediclinic does not focus on spiritual care; rather, attention is given to the psychological care of the staff. Traumatized staff members in need of debriefing are referred to social workers who operate as external service providers. Secondly, there is no existing policy for healthcare chaplaincy in the organization. Thirdly, there is no provision for daily devotion led by healthcare Chaplains because Mediclinic upholds a corporate culture of diversity and inclusion. Thus, religious diversity among the staff is respected. Staff members cannot be excluded from spiritual care that involves debriefing and related counseling support. Moreover, religious issues are emotional, sensitive, and delicate, so the organization avoids embracing a particular religion or multi-religious chaplaincy services. However, the organization is not rigid as it allows staff members like Nurses to provide voluntary spiritual support for patients of the same faith. Thus, religious Chaplains can be invited on client demand, but not as a corporate culture of Mediclinic.

C. Emergency Services Chaplaincy of Southern Africa (ESCSA): This spiritual care organisation in South Africa is headquartered in Gauteng with over 800 trained chaplains over the last two decades. Although medical healthcare is not the focus of ESCSA, some chaplains provide spiritual healthcare services. Based on a one-on-one interview, the followings are the summary of the research findings. Meanwhile, respondents' anonymity has been maintained as they have been identified as Chaplains 1, 2, 3 and 4.

Chaplain 1 submits that poor training contributes to the rejection of Chaplains' services in hospital settings as some Chaplains conduct themselves in the following manner. 1) Often upsetting hospital patients and staff. 2) Disregarding hospital protocols. 3) Interfering when hospital staff are busy. These attitudes lead to distrust and resistance by both staff and patients. Another issue is the Chaplains' cost of travel to hospitals.

Chaplain 2 served as one of the gifted internists at Sandton Clinic for seven years and testified to have been well received. The initial purpose was to serve a few individuals. But seeing the value, chaplain 2 was told to serve the entire hospital. However, there was a policy made to regulate his spiritual care activities. The Chaplain was instructed not to create an environment of evangelism but to meet patients and hear their emotional and physical concerns if they are comfortable with such support. Chaplain 2 supports patients (including non-Christians) via his faith in Jesus without overwhelming the patients or family members. Chaplain 2 observed that chaplains are rarely employed in South Africa as against the practice in America, where Chaplains are part of the hospital staff.

Chaplain 3 does not work as a hospital staff but was required to serve during covid19 paramedic. The hospital welcomed her services due to the overwhelming situation created by the pandemic, which needed more hands.

Chaplain 4 finds favor with hospitals and equally respects the Doctors and Nurses, addresses them with their titles, and honors them for what they do. She provides spiritual care for Doctors, Staff, and Patients. She is called upon when Doctors and Nurses have difficulties with specific patients, and she assists those with terminal health challenges with the last minutes prayer support.

D. Medical and Community Chaplaincy (MCC): The organization is based in Johannesburg municipality, and its chaplains serve both public and private hospitals, which include Baragwanath Soweto, Charlotte Maxeke, and Helen Joseph hospitals, among others. MCC is 5 years old as of 2023, with about 4000 members serving South African communities. The followings are the outcome of a one-on-one interview with the founder.

The popularity of healthcare chaplaincy in South Africa: MCC founder emphasizes that government does not recognize the role of Chaplains except those serving in law enforcement agencies. But MCC derives support from international bodies like the Bristol Myers Squibb Foundation and continues to function as an activist group, demanding the recognition and support of the government. Currently, some pieces of legislation are being pushed for the recognition of healthcare chaplaincy in South Africa. The government is slowly giving attention to such demand.

How patients, healthcare professionals, and hospital management respond to chaplaincy services: Patients and their families warmly receive MCC Chaplains. Patients look forward to Chaplains' arrival for spiritual support, and in some cases, hospital management invites them at patients' request. Likewise, healthcare professionals and hospital management receive Chaplains as part of their multidisciplinary team and sometimes refer patients to them. MCC Chaplains also support patients who await Doctors' consultation. While waiting, the MCC team provides spiritual counseling, motivation, and sometimes meals for the patients. MCC developed this concept of feeding from Math 25:31. They also support patients in communities where the social workers in hospitals treat the patients poorly. Thus, where social workers operate without conscience, thereby increasing patients' trauma, the MCC team provides spiritual support. But all the Chaplains' activities as multidisciplinary healthcare team members go along with pre-engagement and continuous training in para-medical and nursing fields.

The challenges healthcare Chaplains face with South Africa's health policy: Healthcare policy is unclear about the responsibility of the Chaplains. Yes, the policy concurred that South Africa needs spiritual counselors and caregivers, but the curriculum needs to clarify the healthcare chaplaincy role. Hence, MCC is acting as an activist organization, putting pressure on the government to clarify the role. MCC is also pushing that government should provide bursaries for Chaplains to have some form of nursing and para-medical trainings. Although the government is responding very slowly, corruption may be one of the challenges inhibiting such intervention.

Challenges with healthcare organizations' management and staff: In some cases, HR managers of hospitals resist the services of MCC because of job insecurity; they feel that medical Chaplains may take over Nurses' and social workers' jobs. This is one of the reasons some hospital management support government agencies to probe "Harmful religious practices" in South Africa. Thus, most private hospitals disallow chaplaincy services except on patients' demand. And most hospitals do not employ healthcare Chaplains because the healthcare policy is unclear about it.

Challenges with Christian groups: Some religious leaders and Christian groups in government oppose MCC in the healthcare sector. This is because of rivalry, missional competition, and struggle for relevance in the hospital setting. The capacity of MCC threatens them. This situation causes some discouragements in healthcare chaplaincy.

Challenges with South African communities: Acceptance of healthcare Chaplains is complex because of many communities' affiliation with African traditional spirituality. Thus, allegiance to traditional healing becomes a strong reason to resist healthcare chaplaincy. Worst still, traditional healers are more recognized than Christian healthcare Chaplains by the government. For example, during Covid-19, churches were closed while traditional healers were permitted to provide healing services to their subscribers. Additionally, among all spiritual care organizations, the 2018 Presidential Health Summit had the National Unitary Professional Association for African Traditional Health Practitioners of South Africa (NUPAATHPSA) represented in the steering committee (Presidential Health Summit Compact 2019). This discrimination furthers poor acceptance of healthcare Chaplains' services in South Africa.

Challenges within the chaplaincy: There are challenges with Chaplains who enroll in MCC training. These include doctrinal and positional conflicts. For example, Pastors with titles rarely want to grow in the chaplaincy ranks; they want to carry over their pre-chaplaincy status. With the information gathered so far, a brief discussion will now be presented below.

Discussion

The previous sections have shown gaps in healthcare services evident in the background information, quantitative and qualitative research outcomes. This section focuses on how the research outcome underscores the efficacy, sufficiency, and challenges of healthcare chaplaincy in South Africa vis-a-vis increasing healthcare demand and decreasing healthcare supply. Each of them will now be discussed below.

Efficacy: Cambridge Dictionary (n.d) defines efficacy as the ability or method of achieving something to produce the intended result. In the spiritual chaplaincy context, how efficiently can spiritual care produce the desired result of its intent; to bridge the gap between the supply and demand of healthcare? The quantitative research conducted at PVPC shows the efficacy of healthcare Chaplains in providing spiritual wellness for Pharma Valu staff. The analysis of the research outcome, which shows that spiritual care engenders psychosocial support, business-friendly attitude, and spiritual well-being for the staff, is evidence that spiritual care services are efficient in the health sector. If the reverse is the case, over 85% of the staff will not continue to desire and call for chaplaincy services in daily devotion. Likewise, the qualitative research report from MCC and ESCSA shows that having healthcare Chaplains as members of the multidisciplinary healthcare team of some hospitals stands as evidence of spiritual care efficiency in the healthcare industry. Indeed, spiritual care can be a necessary bridge between the demand and supply of healthcare for health workers, patients, and their families.

Sufficiency: The qualitative data from MCC and ESCSA shows there are between 4000 – 5000 trained chaplains in South Africa, of which the healthcare Chaplains hold the highest percentage. There are about 4000 MCC Chaplains and around 800 ESCSA Chaplains. ESCSA

also estimated that about 50% of the Chaplains are not active, and only 25-30% are employed by law enforcement agencies. According to Khalo (2022), about 160 full-time and 250 reserved Chaplains assist in ministering to an average of 75051 South African National Defence Force (SANDF). Regardless, the current number of healthcare Chaplains in South Africa cannot fill the gap between demand and supply of healthcare. The statistics show that the current number of Chaplains remain insufficient to serve the nation's population.

Challenges: The qualitative report reveals several challenges, which include a lack of recognition and support from the government, especially on the clearance of chaplaincy role in healthcare policy, insufficient training of Chaplains, opposition within the Christian groups, resistance by hospitals management and many African communities influenced by African Traditional Religion (ATR) and lack of Chaplains' employment opportunities. This article suggests that so long as these challenges are not addressed, healthcare chaplaincy cannot be improved to bridge the gap between the demand and supply of healthcare in South Africa. Consequently, the under-listed points have been recommended for improved chaplaincy spiritual care to bridge the gap between the demand and supply of healthcare.

Recommendations

1. Government needs to speedily make an explicit provision for the significant role of chaplaincy in its healthcare policy and provide bursaries for training healthcare chaplains.

2. Communities need to be sensitized by government-relevant agencies, chaplaincy groups, missional organizations, and community leaders to know the importance of accepting the services of chaplains to improve community health. Communities need to know that healthcare chaplaincy service is about their health and welfare and not about their religion.

3. In collaboration with Churches and related missional agencies, chaplaincy organizations need to train more Chaplains to serve the nation. Likewise, the Church community in South Africa needs to support their members and ministers to be part of the community service to provide alternative ways of reducing healthcare gaps and inequality in South Africa.

4. Chaplaincies may also need to pursue unity and collaboration with different religious groups like the South African Council of Churches (SSAC) for specific endorsement to have a stronger voice in the corridors of political power and eventually influence the healthcare policy. Affiliation with theological institutions, healthcare training institutions for some form of theological, para-medical and nursing trainings, and endorsements are also imperative to improve spiritual care.

5. Theological institutions and faculty of theology in South African Universities need to improve their research and training on spiritual care services. A cue can be taken from some institutions' programs, like the Duke University program on Theology, Medicine, and Culture (Duke Divinity School 2015) and the University of Edinburg's chaplaincy project on health academy (The University of Edinburgh Chaplaincy 2023).

References

Aikman, N. 2019. “The crisis within the South African healthcare system: A multifactorial disorder.” *South African Journal of Bioethics and Law* 12 (2): 52-56.

Bezuidenhout, M.M, Joubert G., Hiemstra L.A and Struwig M.C. 2009. “Reasons for doctor migration from South Africa.” *South African Family Practice* 51(3): 211-215.

Cambridge University Press. n.d. “Efficacy.” In *Cambridge Dictionary*. Accessed July 12, 2023. https://dictionary.cambridge.org/us/dictionary/english/efficacy.

Caron, C. 2021. “Nobody Has Openings: Mental Health Providers Struggle to Meet Demand.” *New York Times,* February 17. https://www.nytimes.com/2021/02/17/well/mind/therapy-appointments-shortages-pandemic.html.

Duke Divinity School. 2015. “Theology, Medicine and Culture.” Accessed August 02, 2023. https://www.ed.ac.uk/chaplaincy/wellbeing.

Khalo, M. 2022. “Chaplains in the Army.” *Ditsong Museums of South Africa,* June 22. https://ditsong.org.za/en/2022/06/17/chaplains-in-the-army/.

Ledesma A., McCulloh C., Wieck H and Yang M. 2015. “Health care sector overview.” *Washington State University,* February 01. https://s3.wp.wsu.edu/uploads/sites/606/2015/02/SectorOverview_HC_Spring2014.pdf.

Mayosi B.M, Lawn J.E, Niekerk A.V, Bradshaw D., Karim S.S and Coovadia H.M. 2012. “Health in South Africa: Changes and challenges since 2009.” *The Lancet.* 380 (9858), 2029–2043.

Medical Brief. 2016. “Nursing shortage is compromising SA healthcare.” Accessed April 10, 2023. https://www.medicalbrief.co.za/archives/nursing-shortagecompromising-sas-healthcare/.

Mediclinic Group. 2023. “Mediclinic Southern Africa”, Accessed July 10, 2023. https://www.mediclinic.com/en/operating-divisions/mediclinic-southern-africa.html

Michas, F. 2022. “Global mental health workforce rate per 100,000 population by type 2020.” *Statistica.* Accessed April 05, 2023. https://www.statista.com/statistics/796082/mental-health-workforce-per-population-rate-worldwide-by-type/.

Naylor, C., Parsonage, M., McDaid, D., Knapp, M., Fossey, M. and Galea, A. 2012. “Long-term conditions and mental health: the cost of co-morbidities.” Accessed on August 18, 2023. www.kingsfund.org.uk.] http://eprints.lse.ac.uk/41873/#:~:text=England%20each%20year.-.

Parliamentary Monitoring Group. 2018. “Audit outcome 2017/18: Auditor-general briefing, Cape Town.” Accessed April 09, 2023. https:// pmg.org.za/committee-meeting/27176/ (accessed March 5, 2019).

PricewaterhouseCoopers. 2019. “Budget highlights.” Accessed April 09, 2023. https://www.pwc.co.za/en/assets/pdf/budget-2019-highlights.pdf.

Presidential Health Summit Compact. 2019. “Strengthening the South African health system towards an integrated and unified health system.” *South African Government*, Accessed July 20, 2023. https://www.gov.za/sites/default/files/gcis_document/201902/presidential-health-summit-report.pdf

RBS Healthcare Management Module. 2016. “Healthcare in South Africa” *Regent Business School*. Pg 29.

Single Care Team. 2022 “Mental health statistics 2022.” *Check Up.* Accessed July 02, 2023. https://www.singlecare.com/blog/news/mental-health-statistics/.

South African National Department of Health. 2012. “National Department of Health Strategic Plan 2010/11–2012/13.” Pretoria: National Department of Health.

The University of Edinburgh Chaplaincy. 2023. “Wellbeing.” Accessed August 2, 2023. https://www.ed.ac.uk/chaplaincy/wellbeing

Trading Economics. 2018. “South Africa population.” Accessed April 10, 2023. https://tradingeconomics.com/south-africa/population.

World Economic Forum. 2021. “4 Facts you didn’t know about mental health in Africa.” *WEC,* Accessed July 02, 2023. https://www.weforum.org/agenda/2021/08/4-facts-mental-health-africa/.

World Health Organisation. 2022. “Mental Health.” Accessed July 02, 2023. https://www.who.int/health-topics/mental-health#tab=tab_1.

World Health Organization. 2017. “Depression.” *Fact Sheets.* Accessed July 12, 2023. https://www.who.int/health-topics/depressab=tab_1ion#t.

Zulu, S. 2019. “Several Gauteng doctors, medical interns not paid January salaries.” *Eyewitness News*, April 10, https://ewn.co.za/2019/01/30/severalmedical-interns-unpaid-their-january-salaries.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310061

Understanding the Relationship Between Natural Habitat Loss and Urban Development in Irbid Governorate

Anne A. Gharaibeh[1], Tareq N. Aldela'a[2]

[1]*Professor and Dean, College of Architecture and Design, Jordan University of Science and Technology, Irbid, Jordan, dr-anne@just.edu.jo*

[2]*Planner and Architect, Department of City Planning and Design, College of Architecture and Design, Jordan University of Science and Technology, Irbid, Jordan, tnaldelaa17@ad.just.edu.jo, tareqnaser10@gmail.com*

ABSTRACT: The global population has grown rapidly, causing urbanization and rural habitat loss. Current research investigates the causes for habitat loss and fragmentation in the Bani-Kinanah County, Irbid, Jordan. It defines loss and fragmentation as natural or anthropogenic separation of green land. It also examines decision-makers' challenges and proposes greenways to reduce habitat loss and fragmentation. The study utilized snowball sampling to interview decision-makers and ArcGIS software to digitize aerial photographs. A literature review and criteria analysis determined greenway and green corridor locations. The study compared digitized aerial photos from 2005 and 2021 for several villages to assess built-up areas, street construction, and ecological natural corridors. Agricultural footprints were also examined. Interviewing the decision-makers revealed that habitat loss and fragmentation are attributed to physical and non-physical factors. they suggested modifications to natural habitat regulations and laws, public awareness of their importance and the causes of fragmentation, and physical interventions to minimize negative effects to prevent habitat fragmentation and loss. This study provides a foundation for understanding habitat fragmentation and loss and proposing solutions. The study recommends community involvement and collaboration with nature/environmental associations to monitor and prevent changes. It also proposes greenways and green corridors to sustain natural habitats.

KEYWORDS: Habitat loss, fragmentation, greenway planning, rural development, Jordan

Introduction

The primary threats to Earth's biological diversity are habitat loss and fragmentation, which are closely associated with land conversion for human activities and land degradation (Collinge 1996). The loss and fragmentation of habitats pose significant challenges to the preservation of biological diversity (Bennett 1999). Habitat fragmentation is a process that divides a large continuous habitat into multiple smaller patches with a smaller overall area. Addressing habitat loss is critical across multiple scientific disciplines. Urban planners believe that reducing the impact of habitat loss and fragmentation on quality of life is critical. The literature in urban planning has focused on raising biodiversity conservation awareness, implementing policy and strategy changes, and managing land use and infrastructure as key approaches to addressing habitat loss (Di Giulio, Holderegger, and Tobias 2009).

Extensive research has been conducted to investigate the causes of habitat loss and fragmentation, including both natural (Collinge 1996) and human factors (Al-Kofahi et al. 2018). While numerous factors contribute to this problem, researchers have identified effective techniques for mitigating habitat loss (Di Giulio, Holderegger, and Tobias 2009). Globally, these techniques have been implemented to improve connectivity in fragmented areas, involving policy and strategy changes, community engagement, and the development of green infrastructure (Bennett 1999).

In Jordan, several natural areas, particularly in the north, face the imminent threat of habitat loss and fragmentation (Khresat, Rawajfih, and Mohammad 1998). Furthermore, there

is a lack of understanding of the methodologies available to address this issue. As a result, the research seeks to accomplish the following goals:

- Investigate the factors that contribute to habitat loss and fragmentation in the Irbid governorate.
- Examine the role of urban planning practices and activities in facilitating habitat loss and fragmentation within the governorate.
- Determine decision-makers' awareness of habitat loss.
- Emphasis on green infrastructure as a technique for mitigating the effects of habitat loss and fragmentation, particularly in the Bani-Kinanah County of the Irbid governorate. This method includes the creation of natural corridors, buffers, species-specific connections, and steppingstones.
- Identify the factors influencing the selection of suitable locations for the creation of a green corridor in Bani-Kinanah County.

Loss of habitat and fragmentation

When natural or human actions damage and degrade the habitat, it can no longer support the animals and biological systems that live there. Animal extinction and biodiversity loss result (Stuart, Raven, and Raven 2000). 'Fragmentation' occurs when a large area of flora layers is partially cleared, leaving smaller parts that are separated from each other (Bennett 1999, Fahrig 2003). It is an active process that changes the habitat pattern over time (Bennett 1999).

Natural or anthropogenic factors cause habitat loss and fragmentation (Collinge 1996). Earthquakes isolate and reduce wildlife populations. On May 12, 2008, an 8-degree earthquake hit Wenchuan County, Sichuan Province, China, affecting the environment (Zhang et al. 2011). This earthquake destroyed 5.9% (656 km2) of giant panda habitat, including 19 nature reserves (Ouyang 2008).

Human factors arise from global population growth, which drives demand for commercial, residential, and agricultural development (Al-Kofahi et al. 2018). Natural ecosystems have suffered from global urbanization (Brown et al. 2014). Rapid economic development and population growth in China have caused unprecedented urban expansion (Normile 2008). Between 1981 and 2011, China's built-up area nearly fivefold increased from 7.44*103 km2 to 4.36*104 km2 (He et al. 2014). Rapid urbanization in China has destroyed habitat (Xie and Ng 2013). Wuhan, Hubei, China lost 85.3 km2 of water coverage and forest between 1987 and 1999 (Li et al. 2006).

Cleared farmland fragments forest patches; streets, houses, and roads divide urban forests; old forests are replaced by regenerating wood; and green spaces are replaced by intensive human activity (Bennett 1999). Isolation can be measured by the distance to the nearest larger habitat fragment, the number of suitable habitats within a radius, and the presence of linking habitats (Forman and Godron 1986).

Measurements of remaining natural habitat total area, fragment shapes, fragment size-frequency distribution, fragment average distance, and level of dissimilarity between adjacent land uses and habitats can reveal fragmentation-induced landscape changes (Fahrig 1997; Fahrig 2003).

Three main factors cause wildlife habitat fragmentation and loss (Schmiegelow and Mönkkönen 2002).

- Habitat fragmentation breaks up large patches, reducing habitat. This reduces the number of species in a habitat by reducing shelter land.
- Habitat fragmentation also reduces the number of edges suitable for species because they threaten their lives.
- Habitat fragmentation limits species’ mobility and isolates them from other habitats.

Accelerated urbanization, economic development, agricultural industrialization, land use restructuring, and transportation network expansion through natural areas have caused

natural area fragmentation, ecosystem deterioration, species extinction, and natural habitat and structure loss (Baris et al. 2010). In countries with low environmental development and planning, urbanization will threaten over 70% of species by 2030 (Huang, McDonald, and Seto 2018).

As ecosystems change due to urbanization, biodiversity conservation becomes a major issue (Antrop 2004). Urbanization, sprawl, and conurbations have major impacts on biodiversity and ecosystems. In recent decades, habitat loss and fragmentation have caused biodiversity loss (Maxwell et al. 2016). The second half of the 20th century saw unprecedented advances in speed, frequency, and magnitude (Antrop 2000). Existing, fragmented ecosystems have many new features and systems. New ecosystems are functionally homogeneous. New issues arise in landscape science due to its complexity and lack of understanding (Brandt, Holmes, and Skriver 2001). Planners and decision-makers seek new research and scientific expertise. Urbanization, road networks, and globalization drive these developments and new ecosystems (Antrop 2004).

Green infrastructure, policies, and regulations have reduced habitat loss and fragmentation worldwide (Jeusset et al. 2016, Orth et al. 2002). National and subnational governance is needed to mitigate urbanization and other habitat loss and fragmentation (Huang, McDonald, and Seto 2018). Land policies and regulations reduce environmental risks in key biodiversity areas, mitigating the effects of urban habitat depletion on biodiversity (Halleux, Marcinczak, and van der Krabben 2012).

Proper land use planning and policy enforcement are essential for managing environmental risks in biodiversity hotspots (Halleux, Marcinczak, and van der Krabben 2012). Land administration involves discussing land-use policy decisions, implementing appropriate legislation, and collaborating with stakeholders and official bodies at various strategic decision-making stages (Jepson et al. 2001). Land-management laws, regulations, and organizations are fostered by good land governance (Smith et al. 2003).

Green infrastructure balances protection and development best (Benedict and McMahon 2006, Guneroglu et al. 2013, Tarabon et al. 2019). Green corridors—a type of green infrastructure—meet human needs for environmental protection, recreation, and historic and cultural preservation (Baris et al. 2010). Green corridor networks connect rural and urban areas and offer open space (Fabos 1995). Green corridor planning aims to reconnect landscape fragments. Green corridors improve road safety and site value (Viles and Rosier 2001). Based on fragment size, vegetated corridors allow wildlife to move between habitat fragments, allowing more species and/or populations to survive (Collinge 1996).

Many studies have used suitability analysis to locate green corridors. Green corridor locations are determined by parcel size, soil type, future land use, floodplains, and ownership (Conine et al. 2004). Green corridor suitability analysis have included land use or cover factors (Conine et al. 2004; do Carmo Giordano and Riedel 2008; Miller et al. 1998; Steiner, McSherry, and Cohen 2000; Uy and Nakagoshi 2008). Green corridor planning papers often mention slope (do Carmo Giordano and Riedel 2008; Miller et al. 1998; Steiner, McSherry, and Cohen 2000). Green corridors consider the distance to water, streams, or ecological sites (Miller et al. 1998; Steiner, McSherry, and Cohen 2000). The study site must define these factors.

Jordan's Habitat Destruction

Jordan is known for its diverse ecosystems and abundant plant and animal species. Jordan has ecosystems thousands of miles apart despite its 400-kilometer length. Jordanian wildlife populations have declined and several species have gone extinct due to environmental threats. Lack of information, habitat degradation, wildlife persecution, climate change, and ineffective law enforcement are threats (Tellawi 2001).

Al Karadsheh, Akroush, and Mazahreh (2013), Al-Bilbisi (2012), and Khresat (1998) have studied "land degradation" in Jordan. Although some researchers have defined land degradation, Jordan appears to lack the strategies and technologies to effectively combat this issue due to a lack of socioeconomic context, inaccurate identification of arid land problems, and ineffective natural resource management (Al Karadsheh, Akroush, and Mazahreh 2013). Soil fertility loss, wind and water erosion, and overgrazing cause North-Western Jordan's land degradation (Khresat, Rawajfih, and Mohammad 1998). Jordanian land degradation is caused by urbanization, unplanned agricultural activities, and overuse of vegetative cover. Poor farmers and herders use unsustainable methods to increase food production (Al Karadsheh, Akroush, and Mazahreh 2013). Off-roading and plant uprooting threaten Jordan's rangelands (MOE, 2001). Jordan's land degradation is caused by ineffective land use planning policies (Al Karadsheh, Akroush, and Mazahreh 2013).

Community participation is crucial to any land degradation plan, policy, or strategy. Decision-makers, planners, and users at all levels should actively participate in planning to ensure initiative effectiveness and sustainability (Al Karadsheh, Akroush, and Mazahreh 2013). Many habitat fragmentation studies have examined natural and human factors. Glaciation, fires, floods, hurricanes, and volcanic eruptions fragment habitats (Collinge 1996, Al-Kofahi et al. 2018). Glaciation destroys landscapes and habitats. Landforms and vegetation change over time (Collinge 1996). Fires—natural and manmade—damage habitats. In ecosystems with natural fire regimes that renew plant species and preserve habitat diversity, uncontrolled or frequent fires can cause habitat loss and fragmentation (Al-Kofahi et al. 2018). Floods can alter landscapes and destroy habitat. Floodwaters destroy land, vegetation, and ecosystems (Collinge 1996). Tropical storms like hurricanes can damage ecosystems. Hurricane winds and storm surges can uproot trees, destroy vegetation, and reshape coastal areas, fragmenting habitat (Al-Kofahi et al. 2018). Molten lava, toxic gases, and volcanic ash can destroy ecosystems. Eruptions can bury habitats under lava or ash, destroy vegetation, and alter soil fertility, causing habitat loss and fragmentation (Collinge 1996).

These natural factors can cause habitat loss and fragmentation, affecting biodiversity and ecosystem functioning. Effective conservation and management require understanding and mitigating these phenomena. Urban development is Jordan's biggest environmental problem, according to research. Rapid urbanization, driven by waves of immigrants and a growing population, has caused critical conditions nationwide (Abdeljawad and Nagy 2021). Some researchers blamed glaciation, fires, floods, hurricanes, and volcanic eruptions for habitat loss and fragmentation (Collinge 1996). Others (Al-Kofahi et al. 2018) have discussed how population growth affects natural habitats. Many researchers discussed ways to reduce habitat loss and fragmentation, such as regulating urban expansion. Much research in Jordan has focused on land degradation solutions, but "insufficient knowledge of the socio-economic contexts, incorrect identification of the causes of arid land problems, and ineffective management of natural resources" (Al Karadsheh, Akroush, and Mazahreh 2013) prevents effective strategies and technologies from being implemented. Thus, Jordanian decision-makers' habitat fragmentation and loss strategies are unknown.

Green corridors are another option. Green corridors reduce habitat loss and fragmentation. Jordan has only one study (Al Masri, Özden, and Kara 2019). Green corridor criteria were summarized, but habitat fragmentation and loss were not investigated. Urban observation, not aerial photos, was used to prove habitat fragmentation and loss. Thus, decision-makers' experiences define habitat fragmentation and loss, filling a gap in the literature. Green corridors could link these habitats. Jordanian organizations are addressing land degradation through policy interventions. In limited research, green corridors may reduce habitat fragmentation (Gharaibeh 2010, Gharaibeh and Sawalqah 2016, Gharaibeh et al. 2019, Al Masri, Özden, and Kara 2019). Gharaibeh's research stressed the importance of greenways for urban revitalization and pedestrian safety. Green corridors were also stressed for urban

character preservation. Al Masri, Özden, and Kara (2019) suggested green corridors to reduce habitat fragmentation and connect fragmented patches. Urban observations showed habitat fragmentation and loss in Ajloun Forest Reserve, Dibben Forest Reserve, Zay Forest, and Al-Hummar Forest.

Study area

The North-Western Jordanian county of Bani-Kinanah was chosen for this study. Bani-Kinanah County is one of nine Irbid Governorate departments. The county has 149,190 residents and 252 square kilometres, according to the Department of Statistics (2020). Sama Al-Rousan is the county seat (Department of Statistics 2020). Bani-Kinanah County is known for its fertile agricultural lands and diverse farming activities. The county's moderate climate boosts agricultural productivity and contributes to this research. Bani-Kinanah County's ecological sites make it an ideal case study. These ecological sites include springs, streams, valleys, lakes, dams, and beautiful natural parks. These sites are beautiful and support unique ecosystems, increasing the county's ecological diversity (Department of Statistics 2020).

The authors overlap aerial photographs from the past two decades to show habitat fragmentation and loss in Bani-Kinanah County. In 2005, Google Maps took an aerial photo of Kufr-Soum, a county village. The 2005 map shows urban and agricultural areas. Figure 1 shows the area 16 years later. The map shows that the built-up area has expanded into agricultural land. New road construction divided the large agricultural patch into smaller patches. This suggests that urbanization and road construction have fragmented Bani-Kinanah's habitat. To understand habitat loss and fragmentation's causes, more research is needed.

Figure 1: Kufr-Soum 2005 and 2021. *Source: Google maps*

Methodology

This study examines how urban growth, decision-makers, and stakeholders affect green corridor and green space habitat loss and gain. Thus, it assessed conditions and attitudes toward natural habitat preservation and loss using several methods.

Aerial photographs from the past 20 years are used to assess temporal changes. Each aerial photo will have green valleys, urban areas, agriculture lands, and green spaces. Polygons will define green spaces, valleys, and agricultural land. Urban areas and roads will form a second layer with polygon tool parameters. The maps will be combined to calculate green and urban territory addition and subtraction. Given this, only two maps are needed: one for current conditions and one for the earliest aerial to document change. GIS digitization of elapsed aerial photographs will assess spatial fragmentation. The assessment usually compares

maps and aerial photos using GIS maps. After documenting losses/gains, human factors like urban or agricultural expansion can be investigated. Many factors cause habitat losses/gains. Some are due to planning regulations and others to local citizen practices. Thus, this study will poll decision-makers and locals. Interviews provide detailed answers to identify the causes of habitat fragmentation, the decision-makers' awareness of habitat loss, and the challenges they face in addressing it.

Qualitative snowball sampling was used to select interviewees. When finding specialized interviewees is difficult, use the snowball technique. The authors interviewed a UNDP expert, who suggested the other interviewees, using the snowball sampling technique.

Qualitative research stops when data saturation occurs. Five people are interviewed to advise on local practices and policies affecting habitat loss and fragmentation. Municipal planners, Ministry of Environment, UNDP, and natural reserves make decisions.

Decision-makers are asked to assess the reasons for habitat loss, the challenges of preserving these habitats, the policies or strategies they use to legitimize land seize for urban purposes, and their expected respect and value of such habitats. Green infrastructures reduce habitat loss and discontinuity, and green corridors and areas connect Bani-Kinanah's fragmented green cover. This step defines government and stakeholder green corridor implementation barriers. The authors interviewed local residents and farmers to assess their awareness of habitat fragmentation and loss to support the idea that decision-makers should define the role of community in reducing its impact.

Finally, the authors summarized the main variables considered in suitability analysis for green corridors from previous studies and presented them to the interviewees to evaluate, rearrange, and score. It is expected to define factors that affect Bani-Kinanah County green corridor suitability analysis and explore barriers to green corridor connectivity.

Results

In the first step, top view maps of some areas in Bani-Kinanah County were created using aerial photographs and GIS tools to show habitat fragmentation that occurred over the last decade. These areas were chosen because they demonstrate the fragmentation that occurred between 2005 and 2021. Al-Sero, Sama Al-Rousan, and Aqraba villages were specifically chosen because they demonstrated the growth of built-up areas and streets towards natural lands. In addition, an example of new street constructions in natural valleys (natural corridors) in Kufr Soom village was chosen. The figures below (Figure 2) depict the changes in agricultural lands, roads, and built-up areas (footprints) in AL-Sero over the last two decades. The data show that built-up areas are shifting away from agricultural lands between 2005 and 2021. In particular, built-up areas increased by 30,795 square meters over a 16-year period, resulting in a decrease in agricultural lands. While new road construction increased from 8741 meters in 2005 to 11817 meters in 2021.

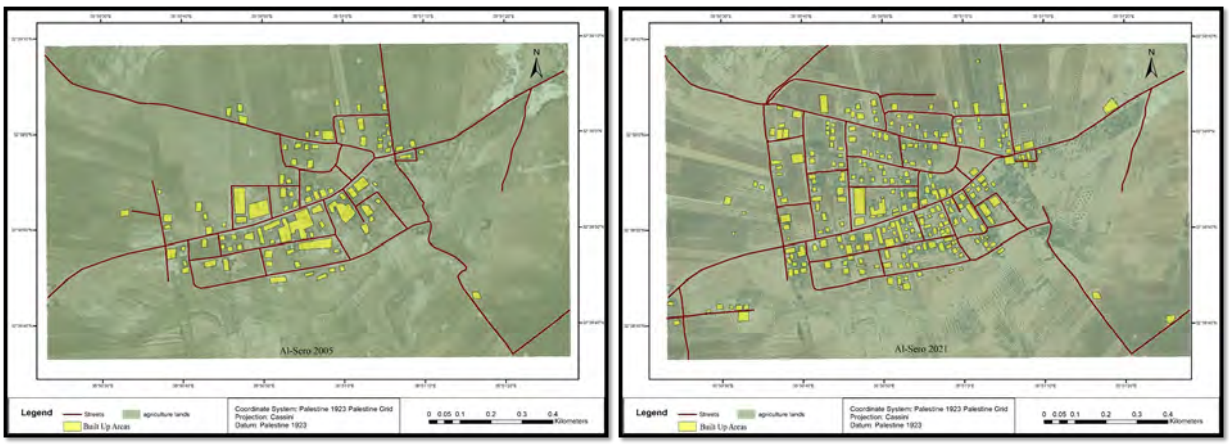

Figure 2: AL-Sero 2005, 2021. *Source: Google maps/ Edited by: Authors*

Aqraba village, on the other hand, undergoes a transformation in built-up areas and road construction between 2005 and 2021. In 2005, as shown in figure 5, the built-up area was 84616 square meters, the length of the roads was 6796 meters, and the agricultural lands area was 1516140 square meters. In 2021, the built-up areas increased to 111087 square meters, the length of the roads increased to 8575 meters, and the agricultural land area decreased to 1489669 square meters, as shown in figure 3.

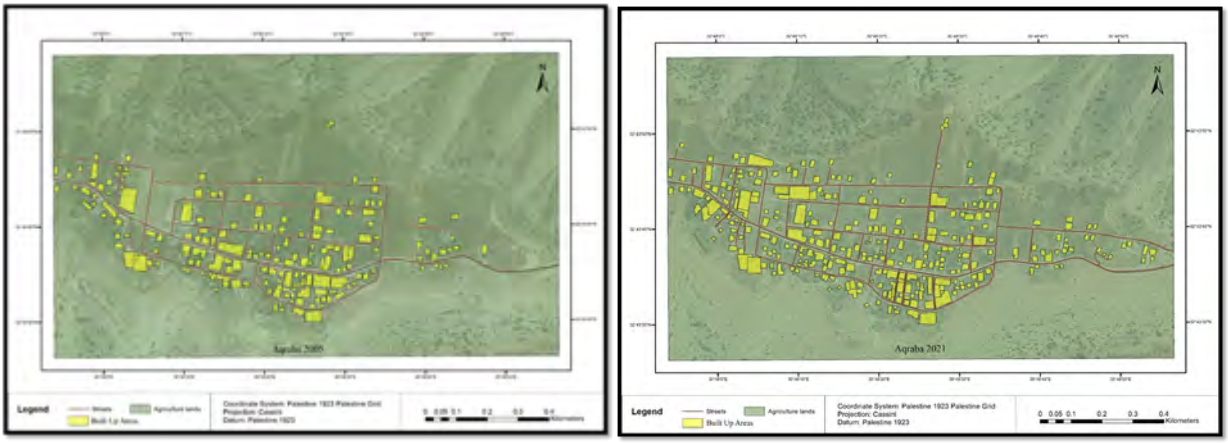

Figure 3: Aqraba 2005, 2021. Source: Google maps/ Edited by: Authors

Kufr-Soum village (Figure 4) depicts the changes in green corridors, agricultural lands, roads, and built-up areas (footprints) in Kufr-Soum over the last two decades. The data show that built-up areas are shifting away from agricultural lands and green corridors between 2005 and 2021. In particular, built-up areas increased by 37,080 square meters over a 16-year period, resulting in a decrease in agricultural lands. While road construction increased from 16110 meters in 2005 to 20747 meters in 2021. Figure 4 shows that the natural green corridor was exposed to street construction, which is considered evidence of habitat fragmentation and loss.

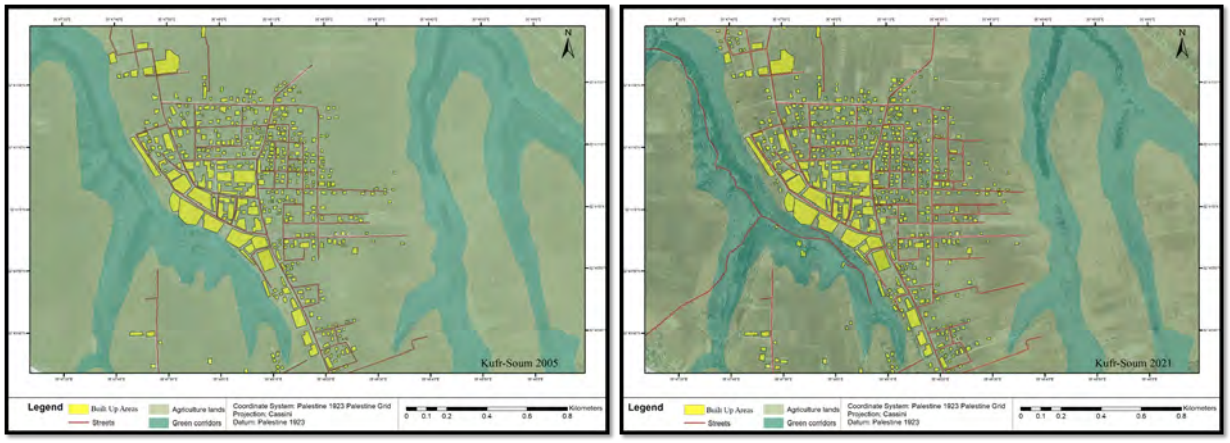

Figure 4: Kufr-Soum, 2005 to 2021. Source: Google maps/Edited by: Authors

Finally, as shown in Figure 5, the agricultural land area in Sama AL-Rousan village decreased from 2771248 square meters in 2005 to 2676141 square meters in 2021. This is due to an increase in built-up areas from 63884 square meters in 2005 to 158991 square meters in 2021, as well as the construction of new roads from 15159 meters in 2005 to 25480 meters in 2021.

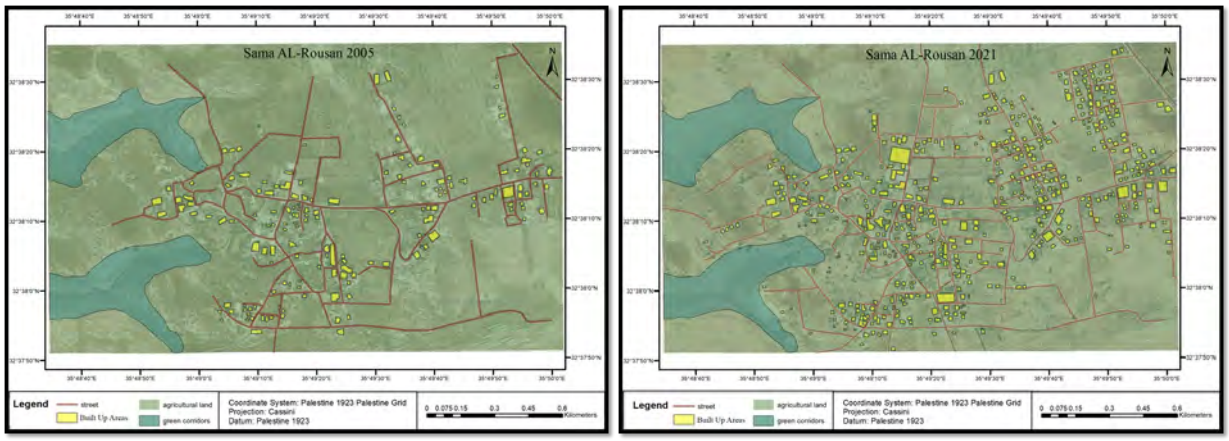

Figure 5: Sama Al-Rousan, 2005 to 2021. *Source: Google maps/Edited by: Authors*

Second, the authors conducted interviews with decision-makers in Bani-Kinanah to determine the causes of habitat fragmentation. The findings revealed that habitat fragmentation in Bani-Kinanah was caused by a decline in agricultural activities, unplanned agricultural activities, logging activities, a lack of environmental laws and regulations, a lack of awareness among residents about the importance of natural environments, climate change, global warming, and desertification.

Furthermore, decision-makers defined the effects of habitat fragmentation and loss. The decision-makers stated that habitat loss and fragmentation caused by urban expansion causes air pollution and increases CO2 emissions, negatively impacting the lives of wildlife. Habitat loss and fragmentation also have a negative impact on natural environments, resulting in a decline in biodiversity values and land degradation. Similarly, urbanization has an impact on the lives of wildlife by disrupting their communities and habitats. Building roads, for example, causes land fragmentation, endangering the lives of wildlife living in these habitats.

Policy and Strategy Development: Decision-Makers

After that, decision-makers were asked about their habitat loss and fragmentation mitigation policies. Decision-makers restrict urban expansion into forests, reserves, and natural areas to prevent habitat loss and human intervention. The climate action plan, green growth plan, and resilience strategy all aim to increase the number of green buildings in Amman, reduce climate change, use new technologies to reduce CO2 emissions, preserve natural areas, increase walkability, and incentivize green buildings and green areas.

Policymakers tried many methods to mitigate habitat loss and fragmentation, but they faced many obstacles. First, funding limits their ability to develop new habitat loss and fragmentation technologies. Municipalities, institutions, and environmental organizations also lacked habitat loss and fragmentation experts. Acquisition costs made private land ownership difficult. Limited institutional collaboration hinders habitat loss and fragmentation projects. Current policies and institutional discord can harm natural areas. For example, if an investment project is proposed in a forest, construction is not permitted under the Forestry Law, but under the Land Regulation Law, the project is presented to the Supreme Organizing Council and a general environmental study is required, confirming that. Because natural environments are not a top priority in all institutions, some condone laws and make exceptions for some citizens in exchange for fine payments, resulting in habitat loss and fragmentation. Finally, community awareness of natural areas and awareness workshops were issues for decision-makers.

Reducing Habitat Loss and Fragmentation

Interviews showed that buffering zones prevent urban sprawl into natural areas, but Bani-Kinanah County does not use them. The Yarmouk natural reserve in Bani-Kinanah County, which protects

wildlife, can also mitigate habitat loss and fragmentation. Jordanian municipalities also create new regulations to protect natural areas and agricultural lands and increase green spaces, open spaces, and parks to protect wildlife and natural heritage.

No decision-makers mentioned green infrastructure in their physical interventions to address habitat loss and fragmentation. They were familiar with green infrastructure and agreed that it can help mitigate habitat damage, but not alone. Green infrastructure, effective policies and regulations, strong institutional collaborations, and community participation and awareness can reduce habitat fragmentation and loss.

This study found green corridors effective, but Bani-Kinanah County decision-makers identified several obstacles to their implementation. First, Jordan's narrow roads were difficult. Due to poor public transportation, more people drove. Another barrier to county green corridors was expansion control. Illegal expansions into agricultural and natural areas exacerbated habitat loss and fragmentation. Green corridors require land acquisition, but private land ownership was the biggest obstacle. The steep slopes of Bani-Kinanah County made creating animal walkable corridors difficult. Without public-private cooperation, green corridors cannot be created.

The decision makers agreed that residents focused on their priorities, selling their land at high prices without regard for wildlife, unaware of habitat fragmentation and loss and its effects on natural areas. Policies also encourage land sales and investment. Workshops raise community awareness. Social media, schools, and community involvement can raise habitat awareness. As in Jordan, community-based protected areas gave local communities ownership and responsibility for wildlife habitat. To raise awareness, the Yarmouk natural reserve employs county residents.

Finally, regular community workshops can help. Bani-Kinanah County green corridor factors were identified. Slope, distance to streets, distance to water, land cover, land ownership factor, land ownership, and land use were these factors.

Discussion

This study demonstrated that the Bani-Kinanah County had experienced habitat loss and fragmentation by comparing aerial photographs of some towns in Bani-Kinanah from the previous decade to current aerial photographs of the same towns. The aerial photographs revealed the county's two main causes of habitat fragmentation and loss. The maps revealed that urban expansion is the primary cause of habitat fragmentation (Figure 6). Specifically, the maps revealed that the increase in built-up areas in some towns caused encroachments on natural lands and habitats, as well as the construction of roads, which resulted in the division of these habitats into smaller patches. These causes are similar to those described in the literature. This study validated the findings of the first step by conducting in-depth interviews with decision-makers to identify the causes of habitat loss and fragmentation. The decision-makers mentioned both physical and non-physical causes, which supports previous research (Collinge 1996, Mullu 2016).

Policies and regulations were mentioned as effective tools to reduce habitat fragmentation and loss in some previous literature (Lewis, Plantinga, and Wu 2009) and as a cause that shapes the landscape and causes habitat fragmentation and loss in other studies (Jongman 2002). As stated by decision-makers in the previous chapter, policies and regulations are the primary cause of habitat loss and fragmentation in Jordan in general, and in Bani-Kinanah in particular. Because Bani-Kinanah's policies and regulations allow residents and landowners to build new structures without considering the effects on wildlife habitats. This supports the findings of Jongman's study (Jongman 2002). However, in the literature, little attention is paid to lack of awareness as a cause of habitat loss and fragmentation. According to decision-makers, if residents or landowners are unaware of the natural value of their lands in Bani-Kinanah, habitat loss and fragmentation will worsen,

because landowners will either sell their lands to investors or keep them for the next generation to build their own houses in the town, resulting in urban expansion.

According to the findings of the interviews, urbanization as a physical cause of habitat fragmentation was caused primarily by a lack of policies, regulations, and community awareness (Figure 7). Urbanization also causes habitat fragmentation and loss through a variety of activities. These activities include unplanned agricultural activities, logging, desertification, road construction, and new building construction. Unlike the findings of this study, previous research has identified human activity as the primary cause of habitat fragmentation and loss (Fahrig 2003, Mullu 2016).

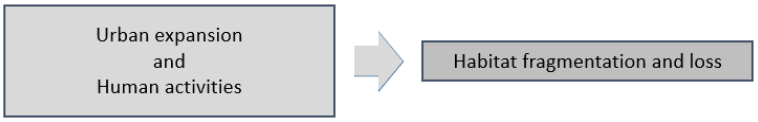

Figure 6: The main cause of habitat fragmentation and loss depending on the literature

Figure 7: The main cause of habitat fragmentation and loss depending on the results of the interviews with the decision-makers

According to the findings of this study, urbanization causes air pollution and increases CO2 emissions, both of which have an impact on the lives of wildlife. Air, noise, and vision pollution may be caused by urbanization. Similarly, it is discussed in the literature that habitat fragmentation and loss cause large patches of natural areas to be broken up, resulting in a decrease in the habitats available for wild species and, as a result, the extinction of these species. Furthermore, fragmentation and loss may result in the formation of edges, which act as unsafe habitats for species. Furthermore, habitat fragmentation and loss isolate habitats, limiting species mobility (Mullu 2016). In summary, habitat fragmentation and loss have direct and indirect effects on wildlife lives, as illustrated in figure (8) below.

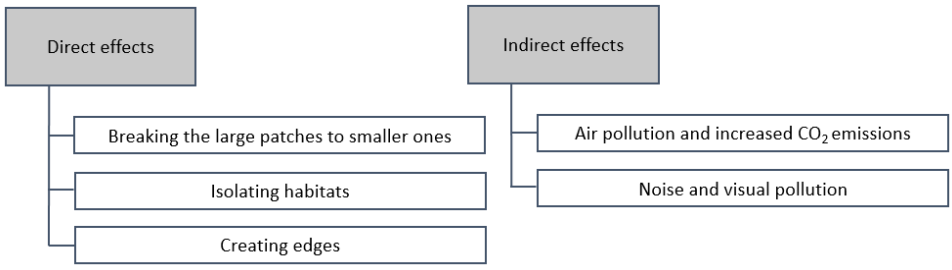

Figure 8: The direct and indirect effects of habitat loss and fragmentation /*Source: Authors*

Decision-makers use the climate action plan, green growth plan, and resilience strategy to control urban expansion into forests, reserves, and natural areas to prevent habitat loss. However, incentive-based conservation policies have been studied (Plantinga and Ahn 2002, Lewis, Plantinga, and Wu 2009). Private landowners are targeted to increase natural, reserve, and forest areas. This policy specifically subsidizes landowners who plant forests (Plantinga and Ahn 2002). This policy does not account for spatial variation in expected benefits, but it reduces habitat loss and fragmentation (Lewis, Plantinga, and Wu 2009). Decision-makers

also recommend prioritizing policies and regulations to reduce habitat fragmentation and loss, but there are few effective natural policies and regulations. Thus, current regulations and policies cannot solve this issue. The decision-makers also mentioned buffering zones (Meffe and Carroll 1997; Martino 2001), natural reserves, green open spaces, the protection of agricultural lands, and the creation of green corridors as physical methods to reduce habitat fragmentation and loss. Green corridors can facilitate species migration and movement between patches (Meffe and Carroll 1997) and affect species diversity (Meffe and Carroll 1997; Martino 2001). In interviews, decision-makers did not mention green corridors, which many literatures recommend for habitat fragmentation and loss.

The community and farmers in Bani-Kinanah's awareness of their lands and habitats is crucial because urbanization's negative effects on wildlife increase without it. Depending on the results, Bani-Kinanah landowners are generally unaware of habitat loss and fragmentation, even though they refuse to sell their land for land investments. They keep their land for future generations to build new houses, which means more urban expansion. Thus, effective policies and regulations, physical methods like green corridors, and community awareness and participation must be combined to solve habitat fragmentation and loss.

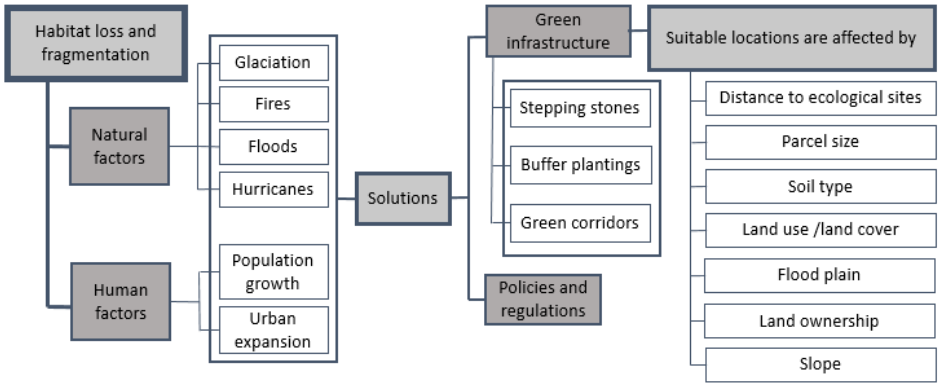

Figure 9: Habitat fragmentation and loss framework depending on the literature

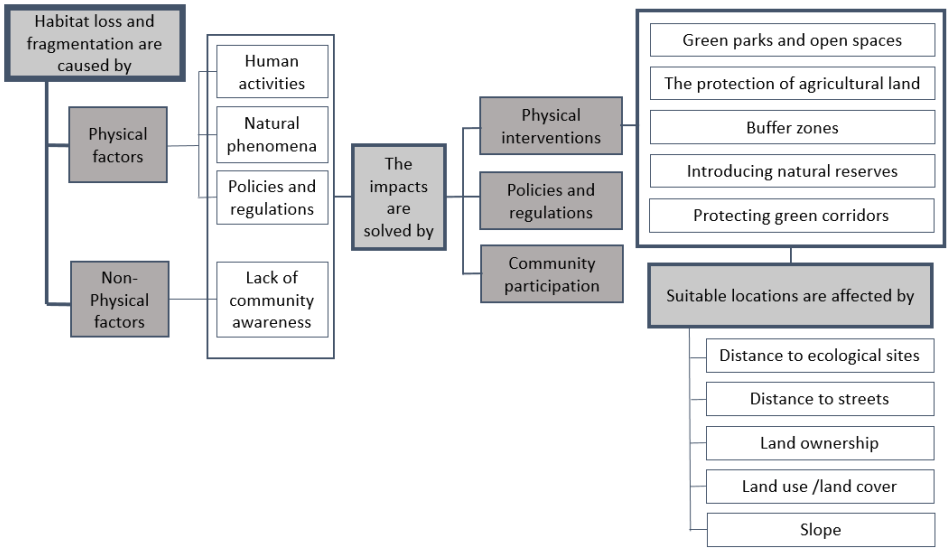

Figure 10: Habitat fragmentation and loss framework depending on the results of this study

The figures (9 and 10) above show the difference between information gathered from the literature review and information gathered in this study. The new framework can serve as a starting point for reducing habitat fragmentation and loss. It demonstrates how to use the

proper physical methods, policies, and community participation strategies to reduce habitat fragmentation and loss. It also illustrates the factors that should be considered when implementing green corridors to connect fragmented natural habitats using ArcGIS suitability analysis.

Conclusion

This study defined habitat fragmentation and loss in Bani-Kinanah County, Irbid, Jordan, identified key causes, evaluated how county decision-makers address these issues and the challenges they face. It also assessed community habitat and wildlife awareness. Additionally, green corridors were explored to mitigate habitat fragmentation and loss. This involved using aerial photographs from the past two decades and GIS to track changes in the study area. Interviews with decision-makers and local residents provided insights into reasons for habitat loss, preservation challenges, urban land acquisition policies, and their expected respect and value of these habitats.

Green corridors can solve habitat loss and fragmentation, but Bani-Kinanah County faces challenges in implementing them. After reviewing literature and interviewing decision-makers, the study presented the factors that may affect green corridor locations in the county. This research is the first to discuss habitat loss and fragmentation, not land degradation, in Jordan, Irbid, Bani-Kinanah. It also adds to urban planning literature by identifying factors to consider when implementing green corridors to mitigate habitat loss and fragmentation in Bani-Kinanah. Although important for urban planning and ecology, this research has many limitations. Many Bani-Kinanah municipal decision-makers didn't help answer the interview because they didn't understand habitat loss and fragmentation. The authors had trouble finding authorities on habitat loss and fragmentation because decision-makers in different associations did not cooperate. They also had to make their own maps since digital ecological maps and information were scarce.

This study suggests workshops should help decision-makers raise community awareness of habitat loss and fragmentation. Natural habitat associations should prioritize community involvement.

- Jordanian natural habitat associations should digitize land covers for research base maps.
- Experienced natural habitat decision-makers should prioritize physical interventions, especially green corridors, to reduce habitat fragmentation.

This research paves the way for future Bani-Kinanah ecological and urban planning studies, which could include the defined factors affecting green corridor locations.

References

Abdeljawad, N. and Nagy, I., 2021. “Urban Environmental Challenges and Management Facing Amman Growing City.” *Review of International Geographical Education Online 11*(5). DOI: 10.48047/rigeo.11.05.192.

Al Karadsheh, D., Akroush, D., and Mazahreh, E. 2013. “Land Degradation in Jordan-Review of knowledge resources.”

Al Masri, A., Özden, Ö., & Kara, C. 2019. “Green Corridor Development as an Approach for Environmental Sustainability in Jordan.” *European Journal of Sustainable Development* 8, 418-418. DOI:10.14207/ejsd.2019.v8n3p418.

Al-Bilbisi, H. 2012. “A two-decade land use and cover change detection and land degradation monitoring in Central Jordan using satellite images.” *Jordan Journal of Social Sciences* 5: 133. https://platform.almanhal.com/Files/2/35080.

Al-Kofahi, S. D., Hammouri, N., Sawalhah, M. N., Al-Hammouri, A. A., and Aukour, F. J. 2018. “Assessment of the urban sprawl on agriculture lands of two major municipalities in Jordan using supervised classification techniques.” *Arabian Journal of Geosciences* 11, 45. DOI:10.1007/s12517-018-3398-5.

Al-Kofahi, S. D., Hammouri, N., Sawalhah, M. N., Al-Hammouri, A. A., & Aukour, F. J. 2018. “Assessment of the urban sprawl on agriculture lands of two major municipalities in Jordan using supervised classification techniques”. Arabian Journal of Geosciences, 11, 45. DOI:10.1007/s12517-018-3398-5

Antrop, M. 2000. “Background concepts for integrated landscape analysis.” *Agriculture, Ecosystems & Environment* 77: 17-28. DOI: 10.1016/S0167-8809(99)00089-4.

Antrop, M. 2004. “Landscape change and the urbanization process in Europe.” *Landscape and Urban Planning* 67: 9-26. DOI: 10.1016/S0169-2046(03)00026-4.

Baris, M., Erdogan, E., Dilaver, Z., and Arslan, M. 2010. “Greenways and the urban form: City of Ankara, Turkey.” *Biotechnology & Biotechnological Equipment* 24, 1657-1664. DOI: 10.2478/V10133-010-0022-6.

Benedict, M., McMahon, E., & Infrastructure, G. 2006. “Linking Landscapes and Communities.” *Natural Areas Journal* 3: 282-283.

Bennett, A. F. 1999. Linkages in the landscape: the role of corridors and connectivity in wildlife conservation. Clayton, Victoria: IUCN, Gland, Switzerland and Cambridge, UK.

Brandt, J., Holmes, E., and Skriver, P. H. 2001. Urbanisation of the countryside: problems of interdisciplinarity in the study of rural landscape development.

Brown, M. L., Donovan, T. M., Schwenk, W. S., and Theobald, D. M. 2014. “Predicting impacts of future human population growth and development on occupancy rates of forest-dependent birds.” *Biological Conservation* 170: 311-320. DOI: 10.1016/j.biocon.2013.07.039.

Collinge, S. K. 1996. “Ecological consequences of habitat fragmentation: implications for landscape architecture and planning.” *Landscape and Urban Planning* 36: 59-77. DOI: 10.1016/S0169-2046(96)00341-6.

Conine, A., Xiang, W.-N., Young, J. and Whitley, D. 2004. “Planning for multi-purpose greenways in Concord, North Carolina.” *Landscape and Urban Planning* 68: 271-287. DOI: 10.1016/S0169-2046(03)00159-2.

Department of Statistics. 2020. Population and Housing Census 2015. Jordan.

Di Giulio, M., Holderegger, R. and Tobias, S. 2009. “Effects of habitat and landscape fragmentation on humans and biodiversity in densely populated landscapes.” *Journal of Environmental Management* 90: 2959-2968. DOI: 10.1016/j.jenvman.2009.05.002.

Do Carmo Giordano, L. and Riedel, P. S. 2008. “Multi-criteria spatial decision analysis for demarcation of greenway: A case study of the city of Rio Claro, Sao Paulo, Brazil.” *Landscape and Urban Planning* 84: 301-311. DOI: 10.1016/j.landurbplan.2007.09.006.

Fabos, J. G. 1995. “Introduction and overview: the greenway movement, uses and potentials of greenways.” La *Landscape and Urban Planning* 33: 1-13. DOI: 10.1016/0169-2046(95)02035-R.

Fahrig, L. 1997. “Relative effects of habitat loss and fragmentation on population extinction.” *The Journal of Wildlife Management* 603-610. DOI: 10.2307/3802168.

Fahrig, L. 2003. “Effects of habitat fragmentation on biodiversity.” *Annual Review of Ecology, Evolution, and Systematics* 34: 487-515. DOI: 10.1146/annurev.ecolsys.34.011802.132419.

Forman, R. T. and Godron, M. 1986. *Landscape ecology*. John Wiley & Sons. New York, 4, 22-28.

Gharaibeh, A.A. and Sawalqah, H.A., 2016. “Greenway Planning; Developing a Network Methodology for Jordan.” In *Proceedings of the Fábos Conference on Landscape and Greenway Planning*, Vol. 5, No. 1, p. 38. DOI: https://scholarworks.umass.edu/fabos/vol5/iss1/38.

Gharaibeh, A.A., 2010. “Enhancing the Historical Identity of Jerash by Introducing Greenway Culture.” In *Proceedings of the Fábos Conference on Landscape and Greenway Planning*, Vol. 3, No. 1, p. 50. DOI: https://scholarworks.umass.edu/fabos/vol3/iss1/50.

Gharaibeh, A.A., Al. Zu’bi, E.A.M. and Abuhassan, L.B. 2019. “Amman (City of Waters); Policy, land use, and character changes.” *Land* 8(12): 195. DOI: 10.3390/land8120195.

Guneroglu, N., Acar, C., Dihkan, M., Karsli, F. and Guneroglu, A. 2013. “Green corridors and fragmentation in South Eastern Black Sea coastal landscape.” *Ocean & Coastal Management* 83: 67-74. DOI: 10.1016/j.ocecoaman.2013.02.025.

Halleux, J.-M., Marcinczak, S. and Van Der Krabben, E. 2012. “The adaptive efficiency of land use planning measured by the control of urban sprawl*.” The cases of the Netherlands, Belgium and Poland. Land Use Policy* 29: 887-898. DOI: 10.1016/j.landusepol.2012.01.008.

He, C., Liu, Z., Tian, J. and Ma, Q. 2014. “Urban expansion dynamics and natural habitat loss in China: a multiscale landscape perspective.” *Global Change Biology* 20: 2886-2902. DOI: 10.1111/gcb.12553.

Huang, C-W., Mcdonald, R. I. and Seto, K. C. 2018. “The importance of land governance for biodiversity conservation in an era of global urban expansion.” *Landscape and Urban Planning* 173: 44-50. DOI: 10.1016/j.landurbplan.2018.01.011.

Jepson, P., Jarvie, J. K., Mackinnon, K. and Monk, K. A. 2001. “The end for Indonesia's lowland forests? *Science* 292: 859-861”. DOI: 10.1126/science.1061727.

Jeusset, A., Vargac, M., Bertheau, Y., Coulon, A., Deniaud, N., De Lachapelle, F. F., Jaslier, E., Livoreil, B., Roy, V. and Touroult, J. 2016. “Can linear transportation infrastructure verges constitute a habitat and/or a corridor for biodiversity in temperate landscapes? A systematic review protocol.” *Environmental Evidence* 5: 5. DOI: 10.1186/s13750-018-0117-3.

Jongman, R. H. 2002. “Homogenisation and fragmentation of the European landscape: ecological consequences and solutions.” *Landscape and Urban Planning* 58: 211-221”. DOI: 10.1016/S0169-2046(01)00222-5.

Khresat, S., Rawajfih, Z. and Mohammad, M. 1998. “Land degradation in north-western Jordan: causes and processes.” *Journal of Arid Environments* 39: 623-629. DOI: 10.1006/jare.1998.0385.

Lewis, D. J., Plantinga, A. J. and WU, J. 2009. “Targeting incentives to reduce habitat fragmentation.” *American Journal of Agricultural Economics* 91, 1080-1096. DOI: 10.1111/j.1467-8276.2009.01310.x.

Li, Y., Zhao, S., Zhao, K., Xie, P. & Fang, J. 2006. “Land-cover changes in an urban lake watershed in a mega-city, central China.” *Environmental Monitoring and Assessment* 115: 349-359. DOI: 10.1007/s10661-006-6559-z.

Martino, D. 2001. “Buffer zones around protected areas: a brief literature review.” *Electronic Green Journal* 1. DOI: https://escholarship.org/uc/item/02n4v17n.

Maxwell, S. L., Fuller, R. A., Brooks, T. M. & Watson, J. E. 2016. “Biodiversity: The ravages of guns, nets and bulldozers.” *Nature News* 536, 143. DOI: 10.1038/536143a.

Meffe, G. K. and Carroll, C. 1997. contributors. 1997. “Principles of conservation biology.” Sinauer Associates, Sunderland, Massachusetts.

Miller, W., Collins, M. G., Steiner, F. R. and Cook, E. 1998. “An approach for greenway suitability analysis.” *Landscape and Urban Planning* 42: 91-105. DOI: 10.1016/S0169-2046(98)00080-2.

Mullu, D. 2016. “A review on the effect of habitat fragmentation on ecosystem.” *Journal of Natural Sciences Research* 6: 1-15.

Normile, D. 2008. “China's living laboratory in urbanization.” *American Association for the Advancement of Science.* DOI: 10.1126/science.319.5864.740.

Orth, R., Batiuk, R., Bergstrom, P. & Moore, K. 2002. “A perspective on two decades of policies and regulations influencing the protection and restoration of submerged aquatic vegetation in Chesapeake Bay, USA.” *Bulletin of Marine Science* 71: 1391-1403. DOI: https://scholarworks.wm.edu/vimsarticles/1530

Ouyang, Z. 2008. “Impact assessment of Wenchuan earthquake on ecosystems.” *Acta Ecol Sin* 28: 5801-5809.

Plantinga, A. J. and Ahn, S. 2002. “Efficient policies for environmental protection: an econometric analysis of incentives for land conversion and retention.” *Journal of Agricultural and Resource Economics* 128-145. DOI: https://doi.org.10.3147/f0312.

Schmiegelow, F. K. and Mönkkönen, M. 2002. “Habitat loss and fragmentation in dynamic landscapes: avian perspectives from the boreal forest.” *Ecological Applications* 12: 375-389. DOI: 10.1890/1051-0761(2002)012[0375:HLAFID]2.0.CO;2.

Smith, R. J., Muir, R. D., Walpole, M. J., Balmford, A. and Leader-Williams, N. 2003. “Governance and the loss of biodiversity.” *Nature* 426, 67-70. DOI: 10.1038/nature02025.

Steiner, F., Mcsherry, L. & Cohen, J. 2000. “Land suitability analysis for the upper Gila River watershed.” *Landscape and Urban Planning* 50: 199-214. DOI:10.1016/S0169-2046(00)00093-1.

Stuart, L., Raven, P. and Raven, P. 2000. “Biodiversity: Extinction by numbers.” *Nature* 403: 843-845. DOI: 10.1038/35002708.

Tarabon, S., Bergès, L., Dutoit, T. and Isselin-Nondedeu, F. 2019. “Maximizing habitat connectivity in the mitigation hierarchy. A case study on three terrestrial mammals in an urban environment.” *Journal of Environmental Management* 243, 340-349. DOI: 10.1016/j.jenvman.2019.04.121.

Tellawi, A.-M. M. 2001. “Conservation and sustainable use of biological diversity in Jordan.” Jordan. DOI: 10.1007/978-94-017-7435-2_7.

UY, P. D. and Nakagoshi, N. 2008. “Application of land suitability analysis and landscape ecology to urban greenspace planning in Hanoi, Vietnam.” *Urban Forestry & Urban Greening* 7: 25-40. DOI: 10.1016/j.ufug.2007.09.002.

Viles, R. and Rosier, D. 2001. “How to use roads in the creation of greenways: case studies in three New Zealand landscapes.” *Landscape and Urban Planning* 55: 15-27. DOI: 10.1016/S0169-2046(00)00144-4.

Xie, Y. J. and NG, C. N. 2013. “Exploring spatio-temporal variations of habitat loss and its causal factors in the Shenzhen River cross-border watershed.” *Applied Geography* 39: 140-150. DOI: 10.1016/j.apgeog.2013.01.001.

Zhang, J., Hull, V., Xu, W., Liu, J., Ouyang, Z., Huang, J., Wang, X. and Li, R. 2011. “Impact of the 2008 Wenchuan earthquake on biodiversity and giant panda habitat in Wolong Nature Reserve, China.” *Ecological Research* 26: 523-531. DOI: 10.1016/j.apgeog.2013.01.001.

Zhang, Z., Meerow, S., Newell, J. P. and Lindquist, M. 2019. “Enhancing landscape connectivity through multifunctional green infrastructure corridor modeling and design.” *Urban Forestry & Urban Greening* 38: 305-317. DOI: 10.1016/j.ufug.2018.10.014.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310065

Decision-making and Folklore in the Matter of Life and Death: Brain Death, Organ Donation, and Miracle Narratives

Hicran Karataş

Associate Professor, Bartın University, Bartın, Turkiye, hkaratas@bartin.edu.tr

ABSTRACT: Turkiye and the rest of the world have been experiencing insufficient cadaveric organ donations. Although Turkey laws regulating organ transplantation allow the harvest of organs from the brain-dead who donated their organs while they were alive, Turkish social norms prohibit physicians from applying the written procedures. Therefore, both verbal and written consent of the close relatives of the possible cadaveric donors must be obtained after the brain death is announced. The ambiguity of the concept of brain death, invented in the 50s, and the terminology of modern medicine limit people's ability to comprehend the states of coma, vegetative life, and brain death. Even though cross-cultural studies verify that the most common reasons for reluctance in cadaveric organ donations are religious concerns, interviews with donors and refusers, who are the relatives of brain-death people, revealed that folklore transmitted to generations within the context of beliefs, rituals, social norms, and oral genres also affect the judgment of prospective donors. As will be discussed in this paper, miracle narratives are particularly referenced in rejecting the reality of brain death in the conducted interviews. This paper will explore how such narratives affect decision-making process of refusers concerning the death of one and the survival of another.

KEYWORDS: Culture, folklore, cadaveric organ donation, decision-making, miracle narratives

Introduction

Brain death is an invented form of death due to the advances in resurrection and intensive care. Before then, medical understanding of death was uniformly acceptable worldwide and defined as irreversible loss of functions of the heart and lungs. When C. Beck successfully defibrillated his patient in 1947, medical practitioners discovered that death was reversible (Beck et al. 1947). If the heart could be resuscitated, lung failure death must have also been reversible. Piston ventilators had been used in operating rooms since 1947, but the possibility of lung resurgence first came true in 1950. A year after the piston ventilator was developed for medical purposes, in 1954, Robert Scwab evaluated a coma patient with brain damage. The patient didn't show any life signs apart from the heart maintaining circulation. He turned the respirator off and announced the patient's death (De Georgia 2014, 673). At the time, practitioners had not known the concept of brain death. The concept of death began to change with the mass production of ventilators.

After ventilators were mass-produced in 1955 and became more accessible to doctors, doctors faced diagnostic and ethical dilemmas, particularly concerning patients in a coma (Feng and Lewis, 2023; Beck, Pritchard, and Feil 1947; De Georgia 2014). While these discussions arose, the first successful organ transplantation was performed in 1954 (Merrill et al. 1956). Parallel breakthroughs in resuscitation and intense care, clinic findings in coma patients regarding nervous integration and consciousness, organ transplantation, and ethics coincided (De Georgia 2014, 674). Ethical concerns regarding end-of-life care shifted from whether patients could have euthanasia to avoid further suffering to whether doctors had to prolong the lives of incurable patients. Afterward, ethical concerns regarding end-of-life care moved from academia to the church. Pope Pius XII responded to these concerns with an ordinance in 1957 declaring that doctors did not have to provide extraordinary treatment if it were hopeless. A few years later, F. Ayd suggested to his colleagues that withdrawing care was their duty when death was inevitable. According to him, physicians must recognize

man's right to live or die peacefully. Otherwise, life-preserving treatment could be a scientific weapon for prolonging agony (Ayd 1962, 1099).

Furthermore, before the developments in immunosuppression, transplants between unrelated donors and recipients failed since recipients' immune systems rejected the transplanted kidney. After using immunosuppressants in organ transplants in 1960, rates of organ rejections between unrelated parties declined. In the course of the conceptualization of brain death, terms such as severe coma, beyond coma, hopelessly unconscious patient, irreversible coma, and brainstem death were used to define brain death and its' medical criteria between 1968 and 1981 (Beecher 1968b; 1968a; 1969; Spoor and Sutherland 1995; Machado 2014; De Georgia 2014). At the beginning of the discussions about whether brain death is irreversible, Dr. R. S. Schwab, the first neurologist who questioned whether his comatose patient was alive or dead in 1954, foresaw the current discussions saying doctors need a definition that would have to be accepted by lawyers, medical examiners, and laypeople in 1968 (De Georgia 2014, 675). Defining and legislating brain death took nearly thirty years for the medical community (1954-1981). Studies show that some medical practitioners have questioned the validity of brain death even today since medicine is open to discoveries (Franklin G. Miller and Truog 2009; Alan Shewmon 2009; Hamdy 2012). The brain death concept meets two functions: ventilated persons with irreversible and permanent loss of brain function are declared dead, and ventilated organs of the person can save patients with organ failure.

Methodology

Regulations regarding cadaveric organ donation allow surgeons to harvest cadaveric organs if the brain-dead filled out a consent form while alive. However, the Turkish Health Ministry wants to get along with social norms to protect the social structure of the family of brain death donors. Therefore, even if the individuals donate their organs, coordinators invite the person's relatives after the brain death is announced to ask them If organ donation can proceed. 63.808 patients receive dialysis treatment, and 24.983 are registered waiting list (WL) for cadaveric kidney donors. 2.414 died because they could not find living or cadaveric kidney donors. 3.886 patients suffering from liver failure were active on the waiting list, and sadly 178 of them died while on the WL in 2021 (Domínguez-Gil 2021). While Turkiye is among the three world countries in live organ donations (kidney and liver), the rates of cadaveric donations are meager (Domínguez-Gil, 2021). Knowing Islam promotes organ donation referencing the 32nd Ayat of Surah Al Maida- "…if anyone saved a life, it would be as if he saved the whole people…" This research project aimed to investigate the socio-cultural reasons for unwillingness to cadaveric organ donation.

Therefore, I designed an ethnographic research project to understand how culture and folklore intercept the decision when one has a chance to make several people live by donating cadaveric organs. Informants were selected from among Muslims adherent to Sunni, Shafiq, or Alevi-Bektashi traditions. Since prior studies regarding Turkiye handled the subject as if all Muslims share common beliefs and values and follow standard norms, I wanted to enlarge the fieldwork with informants from different Muslim subcultures.

Fieldwork was conducted between August 21, 2022, and May 15, 2023. For ten months, I interviewed informants who are transplant surgeons, patients with kidney failure or/and liver failure, living organ recipients and donors, cadaveric organ recipients, relatives of brain death donors, living organ donors, imams, Alevi-Bektashi dedes [dedes are faith leaders of Alevis]. The intention was to continue the fieldwork until October 2023 to enlarge the research as much as possible. The work environment consists of 11 training and research hospitals, 9 of which belong to the state, others to the foundations, and all located in Ankara, the capital of Turkiye. In terms of the national organ transplant system, Ankara is one of the most populated regional organ coordination centers [RCC] (tr. Bölge Koordinasyon Merkezi/BKM), and nine RCCs, including Ankara RCC, are subjected to the National Organ and Tissue

Transplantation Center which is also located in Ankara. This facilitated access to informants involved in organ donation in particular ways.

To uphold ethical responsibilities and ensure the well-being of informants socially, physically, mentally, and economically, complete anonymity was promised to all informants, and pseudonyms, chosen from common Turkish names, were used to replace real names. While interviews were recorded at the moment of interviews, observations regarding the interviews and experiences in fieldwork were noted at the end of the day. Recordings were decoded with the help of the Transcriptor, each audio listened to make required corrections on the transcript texts. Before conducting fieldwork, ethics committee approval was obtained from Bartın University Social and Humanities Research Ethics Board, 2022 SBB-0055. Additional official research permissions from each hospital and Ankara RCC were obtained before the fieldwork. All participants were provided with fully informed consent forms, and each participant participated in the research voluntarily.

Data in this paper comes from the interviews conducted with people who refused to donate the cadaveric organs of their brain-dead relatives at the moment of the family meeting held by organ donation coordinators. Participating in these meetings in person, I noted the official reason for rejecting the cadaveric donation that was put forward at the family meeting. Since the mourning period among Sunnis, Shafiq, and Alevis is 40 days, I waited at least forty days after conveying my condolences to relatives of the deceased. After their mourning period passed, I called them, asking if they would interview me. 23 Informants, I will call them from now on as refusers, returned to me. The ages of informants vary from 27 to 68, and interviews were conducted online or face-to-face. Only 4 of the informants are female; the rest are male. Even though female relatives of the brain death were active participants in the meetings, they were passive at the moment of decision-making, withdrawing themselves from the social responsibility and burden of the donation decision. Being present at these meetings, I must add that only dominant female relatives, primarily wives, mothers, and daughters of the brain-dead, could affect other relatives' opinions regarding cadaveric donation.

New Concepts into Old Town: Brain Death and Cadaveric Organ Donation

Turkish national newspapers introduced the international cadaveric transplant operations with headlines such as "patient whose heart was changed", "a heart transplanted into a dentist is functioning perfectly", "patients with heart failure are not hopeless anymore", " patient whose heart changed is getting well", "patient whose heart changed is going to be discharged in three weeks", "a heart of a patient, who is fifty-three years old worker, is changed in ABD too" (Hürriyet 1968e; 1968d; 1968c; 1968a; 1968b). At the beginning of the appearance of the news, the authors claimed that donors were dead, referring to the cause of death in detail. Furthermore, the news avoids saying that the vital organs of cadaveric donors, except the brain, were functioning with the help of an artificial life unit at the time of harvesting. To illustrate, Dr. Barnard's criteria for the declaration of brain death were presented as "How do we know a person is dead" on January 31, 1968 (Hürriyet 1968f). News referred to a brain-death person as *living dead* whose brain was crashed, and he was dependent on special machines (artificial life unit) on June 10, 1968 (Hürriyet 1968g). News regarding brain death moved forward, referencing academic discussions in international medicine conventions where Turkish surgeons participated. The first news on this matter introduced that death was not dependent on the functions of the heart and lungs alone but also on the irreversible loss of the brain's functions. However, the news also clearly stated that medical practitioners couldn't decide the medical criteria for the announcement of brain death (Soysal, 1968). The law regulating organ donation was issued on June 3, 1979, claiming that cadaveric organs could be transplanted from dead people. Brain death, as a new form of death, was not included in the law since the concept was complicated to comprehend by the layman. Both the law and news regarding cadaveric organ transplantation stated that all vital organs of cadaveric organ donors, including lung and heart were dead at the time of the

harvesting. Article 11 of the Law on Organ and Tissue Removal, Storage, Vaccination, and Transplantation used the term *medical death* to imply brain death mandating four specialists could announce it (Resmi Gazete, 1979).

Going through national news regarding cadaveric organ donation and brain death, I saw that the term brain death was only mentioned in medically informative news, primarily interviews with pioneer Turkish transplant surgeons. News mentioning the national and international cadaveric transplants preferred to call brain-dead donors cardiac dead even in the nineties, and they included the details of the reason for death, such as cerebral hemorrhage and brain damage. This cautious attitude toward brain death is rooted in the contradiction of the perception of brain death between the West and the East. The declaration of death is related to the biological existence of humans. It relies on collective acceptance and social consensus as well.

Anatolian-Turkish folklore's traditional understanding of death mainly formed around the heart. “Unless soul left the body, personality stays same” [tr. Can çıkmayınca huy çıkmaz], proverb, suggests that the soul lives in the heart. Folklore suggests that the circle of life begins and ends in the heart. The soul enters the heart in the mother’s womb and leaves the hearth at death. The paradox between the traditional understanding of death and brain death relies on the mutual philosophical conceptualization of soul and heart concerning death. Turkish-Islamic understanding of the body's functioning suggests that the soul administers the metabolic systems. It operates not only in a live body but also in a passive or dead body. Islamic philosophy supports the idea that the soul is located in the heart. Avicenna, for example, defines the soul as an elegant substance and notes that the heart is mainly located in the left gap of the heart. The soul must carry the sensual power to the organs. It also prepares the organs to accept to use of this power (Taşcı Yıldırım 2020). According to Islamic philosophy, the death of a person is the separation of the soul from the body, and when it happens, the signs of vitality disappear. The Islamic understanding of life attributes the brain’s abilities to the heart, such as learning, reasoning, and decision-making. Furthermore, the declaration of death requires that soul must leave the body, and it must be visible with physical signs such as skin color and temperature, the stillness of the movement of the chest, and the inactivity of breathing. These signs are strongly related to the communal acceptance of death and make it challenging to embrace brain death for the relatives of the brain-dead person.

Brain Death, Organ Donation, and Miracle Narratives

Brain death concept mess with the Eastern traditional understanding of death. However, it is equivalent to cardiopulmonary death, which is the cessation of adequate heart function and respiration and results in death. “Brain death, in medical terms, results from irreversible loss of brainstem function. It may be announced with advanced tests confirming the absence of neuronal function in the whole brain” (Laureys, Owen, and Schiff 2004, 539). Brain death has been marked as a form of life in the folklore since the ventilated brain-dead person appears to be sleeping with some signs of vitality. This causes the state of brain death to be confused with vegetative life and coma. Coma is the absence of arousal and consciousness. Comatose patients are in a state of unresponsiveness and lie with their eyes closed. They have no awareness of themselves and their surroundings. Patients in a vegetative state are awake, but they are not aware of themselves and their environment. Patients in a vegetative state or coma may entirely or partially recover.

On the other hand, patients in a brain-dead state are irreversibly dead even though they show vitality signs by means of an artificial life support unit. After the person is declared brain dead, s/he is dead before the law, regardless of the ventilation of organs. The law mandates that the coordinators must meet and inform the family of the brain dead about organ donation hoping that the family may donate some or all organs of the deceased. If the family consents to donate the organs of the brain dead, coordinators initiate the organ donation

process. If the family does not donate the organs, they may turn the life support off or wait for the organs to fail. It is not uncommon for families to request the termination of life support and the release of the body for burial. Statistics show there are only 305 brain death donors in 2021, which is behind in meeting cadaveric organ needs. Some of those who donated vital cadaveric organs were reluctant to donate heart (221 in 305), lung (275 in 305), pancreas (302 in 305), and small bowel (301 in 305). While Turkiye is a pioneer country in living donation, we are significantly behind in cadaveric organ donation. Numbers in cadaveric organ donations mirror the Eastern philosophical understanding of death. Furthermore, folklore in Eastern societies supports this philosophy with oral tradition, social norms, and rituals.

Miracle Narratives and Reluctancy to Cadaveric Organ Donation

Miracle narratives are a subcategory of urban legends. Experience in these narratives is attributed to "friend of a friend." Urban legends, according to Brunvand, were formerly termed urban belief tales, contemporary legends, modern legends, urban rumours, and modern urban legends reflecting the social concerns of modern life in cities and suburbs (1996, 1509). Their credibility comes from the events and people mentioned in the plot, which are familiar to us. These narratives reflect contemporary societal concerns, increasing narratives' captivity.

Furthermore, they are told and listened to by individuals regardless of class, age, or gender (Brunvand 2001). They can be formulated and transmitted by mouth-to-mouth conversation and media, accelerating the circulation rate. As de De Vosnoted, they can be transmitted electronically via e-mails (2008, 479). Urban legends primarily draw attention to the safety of our bodies, minds, and possessions. They use the method of authentication to increase the credibility of the story. The most familiar form of the method is telling the story by attributing the experience to a "friend of a friend", and the audience may safely suppose that the teller knows the owner of the experience. Urban narratives facilitate the cultural elements, names, and spaces familiar to the listener, which also helps listeners not ask, "How this can be possible?" Tellers, according to de Vos, can tell the urban legends as if they listened, read, or watched them, which increases the credibility of the narrative (2008, 479).

Miracle narratives gain credibility by referencing miracles cited in divine books nurturing the idea that divine powers with a divine plan protect people, touch lives, solve hopeless problems, and heal terminal diseases. They use motifs such as healing miracles (curing disabilities and illnesses), nature miracles (calming storms, making rain, feeding people in famine), and restoration miracles (raising the dead, restoring life). The motifs of resurrection and healing in the miracle narratives confuse the families of the brain-dead person. Since the dead show signs of vitality in appearance, patients assume that s/he is in a coma or vegetative state, and s/he may recover. Since the state of brain death is declared while his/her internal organs live with the artificial life unit, the body's color, warmness, and softness seem as if s/he is sleeping. Furthermore, artificial units' sounds and indicators increase the hope of the relatives of the brain-dead that their beloved ones may wake up. States of brain death and coma are alike in appearance, and differences between the two states can be confirmed by rates and indicators in advanced tests that only medical practitioners can interpret.

The interviews revealed that families refused organ donation because they could not believe their beloved ones were dead. The interviews also show that miracle narratives with healing and resurrection motifs intervene with the decision-making process of the reluctant. "One must not lose hope in God" [tr. Allah'tan ümit kesilmez] and "must not lose hope on someone until his/her soul is taken" [tr. Çıkmamış candan ümit kesilmez] are messages of miracle narratives.

Refusers (n=17) cited these messages while explaining the reasoning for refusal. Moreover, these messages in miracle narratives must have turned into proverbs that we refer to in our conversations to give each other hope in difficult times. During the fieldwork, I

witnessed that even a few intensive care doctors consoled the relatives of the dead by referring to these proverbs while declaring the state of brain death. Even though doctors knew that the state of brain death was irreversible, but their cultural language habits forced them to use these proverbs.

In the scope of classical death, condolence expressions in Turkish-Anatolian oral traditions, such as "May Allah rest his/her soul peace" [tr. Allah rahmet eylesin, "May Allah give strength and patience" [tr. Allah sabır ve güç versin] "May Allah let him in his paradise" [tr. mekânı cennet olsun], and "May Allah let his/her soul be forever" [tr. Devri daim olsun] are comforting and acceptable for the relatives of the deceased. However, relatives of the brain death had trouble accepting condolences from intense care doctors who declared the state of brain death. Most of my informants (n=18) said they refused to accept condolences since they believed their beloved one was still alive. İrem, the daughter of the brain-dead, told me that she was angry with doctors and refused to believe in them. Because his father seemed to be sleeping at the moment of declaration: "According to his appearance, he was sleeping. I held and kissed his warm hands. I listened to his breathing. I could not give up on him. I waited for a miracle. I let Allah decide what was right to do. I would not let him die myself" (Personal communication, İrem, November 17, 2022).

Miracle narratives hindering cadaveric organ donations are narrated by attributing healing or resurrection experiences to third parties. Experiences of friends of friends, friends of relatives, and neighbors of acquaintances are presented as witnesses of healing or resurrection motifs. Actors in miracle narratives are doctors who lose hope in patients suffering from terminal diseases such as advanced cancer or organ failure. During my interview with refusers, I compiled 12 miracle narratives employing the resurrection motif. Respondents (n=12) referenced these narratives as one of the reasons Why they refused cadaveric organ donation. The resurrection motif in miracle narratives was experienced in morgues. After cardiac arrest, the individual is taken to the morgue, where resurrection happens. Imams whose duty is to give the body ghusl, Islamic ritual purification, are also presented as witnesses of the resurrection. Since imams are practitioners of religion, the narrator presents them as credible witnesses to increase the narrative's credibility. Miracle narratives' plots have four parts. In the first part, a patient with a terminal disease is declared dead, followed by being taken into the morgue. The second part of the narrative may differ in two ways. The dead is resurrected by God after staying dead for a while, a day at most. He is resurrected while the imam was giving him/her a ghusl in several narratives (n=5). In two ways, resurrection happens at night. Third, the resurrected quietly waits, lying down or sitting in the box of the morgue, for someone who releases him from the morgue. S/he calls for help in several narratives (n=6), and S/he manages to exit the morgue on him/herself in a few narratives (n=3) too. The last part of the plot ties narratives with the message: Doctors are not God, and even advanced tests may fail to declare death.

Hüseyin, who is 54 years old male informant, had trouble comprehending the brain death of his father, whose brain stem died after three days he spent in intensive care. He refused to donate his fathers' cadaveric organs. He did not let intense care doctors unplug the artificial life unit. After his refusal was approved, his father's lung and heart ceased in 4 days. Hüseyin told me the story that his imam friend experienced:

> …My friend, who is an imam, told me a story. He saw with his eyes. After doctors declared a young man dead, his body was taken to the morgue. His heart stopped for a while. Doctors assumed that he was dead. After he was taken into the morgue, his heart started beating. He woke up in a box, wondering if he was dead. He slapped himself to make sure. Then he understood that he was resurrected. Allah let him have a second chance. He called for help, but no one heard his voice. İmam friend of my friend was on duty. He woke up for morning salah. He came to the morgue to prepare the bodies for burial. When he opened the box, he saw him sitting on the tray. Since he was familiar

> with these cases, he took him to the doctor, who sent him morgue. Doctors ran tests that came back good…

Eighteen informants, including the twelve mentioned above, referenced miracle narratives in which healing miracles were plotted as one reason they did not donate the cadaveric organs of their relatives who were in a brain-dead state. During my interviews with refusers (n=18), I compiled miracle narratives (n=24) which include healing miracles. A common message of the plots of these narratives is that doctors, in particular and Western medicine, in general, might fail to define if their patients' diseases are terminal. In this sense, miracle narratives mirror the mistrust of refusers toward Western medicine. These narratives also reflect the confusion of refusers who mixed the state of brain dead with coma. Since an individual whose brain stem is dead cannot recover, miracle narratives report the story of the patient returning from a coma or vegetative state. However, the teller presents his story stating that the patient in his story is in a state of brain death.

Aylin, who is 47 years old female informant, refused to donate her mother's cadaveric organs after waiting for a healing miracle. Then her mothers' ventilated organs failed. I interviewed her after 54 days of her mother's funeral. She had not mentioned sub-reasons for her refusal at the family meeting in the hospital, stating that she was scared that her mother wouldn't be resurrected as a whole body in the afterlife. Indeed, one of the most common reasons for the refusal of cadaveric organ donation is related to the resurrection of the body in the afterlife (De Moraes and Massarollo 2008; Pessoa et al. 2013; Elsafi et al. 2017; Bruzzone 2008; Le Nobin et al. 2014; Ghorbani et al. 2011; Ugur 2018; Şenyuva 2022; Rumsey, Hurford, and Cole 2003; Özbolat 2017; Hamdy 2012; N. et al. 2017; Akbulut et al. 2020). I witnessed families of the brain dead first question if the deceased would be resurrected in the whole body in their afterlife. Well-trained coordinators ease the decision-maker's anxiety by referencing the 27th Ayat of Sural ar-Rum: "…and He is the one who originates the creation then will resurrect it, which is even easier for him". Aylin told me that she confused the state of brain death with coma, regretting not donating cadaveric organs: "At the moment of the family meeting, I could not believe my mother was dead. People around me kept telling me stories of which people with terminal diseases recovered. I could not lose hope until her organs started failing. I could not tell the coordinator I did not believe she was dead" (Personal communication, Aylin, May 12, 2023). Mustafa, 56 years old male informant, refused to donate his wife's cadaveric organs believing that his wife could recover too. At the family meeting, He told coordinators he did not want her wife's body cut open. Even though coordinators tried to ease his anxiety by explaining harvesting procedures, He disagreed. Interviewing him two months after her wife's funeral, he told me he did not convince his wife was dead, assuming she was in a coma. He was not regretful for not donating her cadaveric organs. He waited for a miracle until the last moment: "A day after she was admitted to intensive care, a doctor told us that Satı was brain dead. She seemed like she was sleeping. My relatives kept telling stories to comfort me. Knowing her body was strong, I kept waiting for her healing. After ten days, her organs failed." (Personal communication, Mustafa, April 27, 2023).

Doctors show the results of tests and visual reports to relatives of the brain dead to explain what brain death is. Then they lead relatives of the brain dead to organ donation coordinators who must inform them about cadaveric organ donation. I did not witness any refusers referencing miracle narratives during family meetings. The most prevalent reasons for refusing to donate cadaveric organs were related to the resurrection in the afterlife and reluctance to decide the destiny of the brain dead. For the first, organ donation coordinators present the verses and hadiths declaring that humans will be resurrected with their organs to relieve the concerns of families whose beloved ones are brain dead.

In-depth interviews with cadaveric organ donation refusers (n=23) revealed that miracle narratives are one of the sub-reasons for reluctance to cadaveric organ donation. The relatives

of the dead, who cannot define brain death as death, believe that the deceased is in a coma and vegetative state, deceived by her appearance in the artificial life unit. Cadaveric organ donation refusers reported they could not comprehend that their relatives were dead even though doctors told them so. Since the deceased was being ventilated at the moment of declaration, decision-makers doubted if their relative was dead. Moreover, miracle narratives were being told to ease the anxiety of families by visitors, remote relatives, and neighbors, which only gave false hope. Knowing brain death, coma, and vegetative state is difficult to comprehend; one can easily lean on miracle narratives plotting resurrection and healing motifs.

Conclusion

Studies show that culture has an enormous impact on unwillingness to cadaveric organ donation (Rumsey et al. 2003; Hamdy 2012; Ohnuki-Tierney 1994; NicholsI 1997; Janssen et al. 2017; Bruzzone 2008; Özbolat 2017; Oğuz Güner and Cicerali 2021). Since qualitative studies are limited, folkloric reasons for the inadequacy of cadaveric organ donations are resolved within religious ones. Witnessing numerous family meetings, I indeed believe that religious concerns are strong excuses that refusers first put forward to reject to be part of organ donation. Many refusers (n=18) did not change their mind after coordinators informed them about religious aspects according to Islam. In several cases, coordinators even advised refusers to consult with clergy members whom decision-makers trusted. Only a few agreed but did not donate either.

Even though the concept of death is closely linked to religion, insufficient cadaveric organ donations cannot be solely explained through religion. Folklore, including oral tradition, rituals, social norms, and folk beliefs, intervenes with the decision-making processes of the relatives of prospective donors. The effect of folklore is visible through the social-cultural definition of death. Folk beliefs locate the soul in the heart, ignoring the brain's functions. Moreover, Islamic mysticism over the relationship between soul and heart supports folk belief. According to Islamic philosophy, the heart may commune with itself, reason, and think. Miracle narratives are reflections of the elusiveness of the state of brain death among laymen. They also mirror the mistrust toward Western medicine. According to the message in miracle narratives, death is still primarily related to the heart.

Acknowledgment

This research was funded by the Scientific and Technological Research Council of Turkey (TUBİTAK) in the scope of the research project numbered 122G108 that the author designed and conducted.

References

Akbulut, Sami, Ali Özer, Ayşe Gökçe, Khaled Demyati, Hasan Saritaş, and Sezai Yılmaz. 2020. “Attitudes, Awareness, and Knowledge Levels of the Turkish Adult Population toward Organ Donation: Study of a Nationwide Survey.” *World Journal of Clinical Cases* 8 (11): 2235–45.

Alan Shewmon, D. 2009. “Brain Death: Can It Be Resuscitated?” *Issues in Law and Medicine* 25 (1): 18–24. https://doi.org/10.1353/hcr.0.0122.

Ayd, Frank J. 1962. “The Hopeless Case: Medical and Moral Considerations.” *JAMA: The Journal of the American Medical Association* 181 (13): 1099–1112. https://doi.org/10.1001/jama.1962.03050390001001.

Beck, C. S., W. H. Pritchard, and H. S. Feil. 1947. “Ventricular Fibrillation of Long Duration Abolished by Electric Shock.” *Journal of the American Medical Association* 135 (15): 985–86.

Beecher, Henry K. 1968a. “A Definition of Irreversible Coma: Report of the Ad Hoc Committee of the Harvard Medical School to Examine the Definition of Brain Death.” *JAMA: The Journal of the American Medical Association* 205 (6): 337–40. https://doi.org/10.1001/jama.1968.03140320031009.

Beecher, Henry K. 1968b. “Ethical Problems Created by the Hopelessly Unconscious Patient.” *New England Journal of Medicine* 278 (26): 1425–30. https://doi.org/10.1056/nejm196806272782605.

Beecher, Henry K 1969. "After the Definition of Irreversible Coma." *New England Journal of Medicine* 281 (19): 1070–71. https://doi.org/10.1056/nejm196911062811909.

Brunvand, Jan Harold. 1996. "Urban Legends." In *American Folklore*, edited by Jan Hansen Brunvand, 1509–12. New York: Garland Publishing.

Brunvand, Jan Harold. 2001. *Encyclopedia of Urban Legends*. Santa Barbara: ABC-Clio.

Bruzzone, P. 2008. "Religious Aspects of Organ Transplantation." *Transplantation Proceedings* 40 (4): 1064–67. https://doi.org/10.1016/j.transproceed.2008.03.049.

Domínguez-Gil, Beatriz (Ed.). 2021. "Newsletter Transplant International Figures on Donation and Transplantation 2021." Strasbourg.

Elsafi, S. H., M. M. Al-Adwani, K. M. Al-Jubran, M. M. Abu Hassan, and E. M. Al Zahrani. 2017. "Factors Influencing the Willingness of Allied Health Students to Donate Organs or Tissues." *Transplantation Proceedings* 49 (6): 1215–20. https://doi.org/10.1016/j.transproceed.2017.03.085.

Feng, Danielle, and Ariane Lewis. 2023. "Brain Death: Ethical and Legal Challenges." *Neurologic Clinics* 41(3): 469–483.https://doi.org/10.1016/j.ncl.2023.03.004.

Franklin G. Miller, Franklin G., and Robert D. Truog. 2009. "The Incoherence of Determining Death by Neurological Criteria: A Commentary on *Controversies in the Determination of Death*, A White Paper by the President's Council on Bioethics." *Kennedy Institute of Ethics Journal* 19 (2): 185–93. https://doi.org/10.1353/ken.0.0282.

Georgia, Michael A. De. 2014. "History of Brain Death as Death: 1968 to the Present." *Journal of Critical Care* 29 (4): 673–78. https://doi.org/10.1016/j.jcrc.2014.04.015.

Ghorbani, F., H. R. Khoddami-Vishteh, O. Ghobadi, S. Shafaghi, A. Rostami Louyeh, and K. Najafizadeh. 2011. "Causes of Family Refusal for Organ Donation." In *Transplantation Proceedings*, 43:405–6. https://doi.org/10.1016/j.transproceed.2011.01.031.

Hamdy, Sherine. 2012. *Our Bodies Belong to God: Organ Transplants, Islam, and Struggle for Human Dignity in Egypt*. Berkeley: University of California Press.

Hürriyet. 1968a. "Patients with Heart Failure Are Not Hopeless Anymore." *Hürriyet*, January.

Hürriyet. 1968b. "A Heart Transplanted into a Dentist Is Functioning Perfectly." *Hürriyet*, January 5, 1968.

Hürriyet. 1968c. "Patient Whose Hearth Changed Is Getting Well." *Hürriyet*, January 5, 1968.

Hürriyet. 1968d. "Patient Whose Heart Changed Is Going to Be Discharged in Three Weeks." *Hürriyet*, January 6, 1968.

Hürriyet. 1968e. "A Heart of a Patient, Who Is Fifty-Three Years Old Worker, Is Changed in ABD Too." *Hürriyet*, January 8, 1968.

Hürriyet. 1968f. "Dr. Barnard'a Göre Kalp Reflekslerinde Solunum Yok Olursa, Insan Ölüdür[If Breathing Is Absent in the Heart Reflexes, a Person Is Dead]." *Hürrriyet*, January 31, 1968.

Hürriyet. 1968g. "Kalp Nakli Ekibi Yaşayan Ölü Için Alarma Geçti [Heart Transplant Team on Alert for Living Dead]." *Hürriyet*, June 10, 1968.

Janssen, F., I. Richet, E. Caekelberghs, R. Attyia, M. Gauthier, T. Gergely, M. Mayer, et al. 2017. "Religious and Cultural Aspects of Organ Transplantation." *Revue Medicale de Bruxelles* 38 (6): 490–93.

Laureys, Steven, Adrian M Owen, and Nicholas D Schiff. 2004. "Brain Function in Coma, Vegetative State, and Related Disorders." *The Lancet Neurology* 3 (9): 537–46. https://doi.org/10.1016/S1474-4422(04)00852-X.

Machado, Calixto. 2014. "Historical Evolution of the Brain Death Concept: Additional Remarks." *Journal of Critical Care* 29 (5): 867. https://doi.org/10.1016/j.jcrc.2014.07.002.

Merrill, John P., Joseph E. Murray, J. Hartwell Harrison, and Warren R. Guild. 1956. "Successful Homotransplantation of the Human Kidney between Identical Twins." *Journal of the American Medical Association* 160 (4): 277–82. https://doi.org/10.1001/jama.1956.02960390027008.

Moraes, Edvaldo Leal De, and Maria Cristina Komatsu Braga Massarollo. 2008. "Family Refusal to Donate Organs and Tissue for Transplantation." *Revista Latino-Americana de Enfermagem* 16 (3): 458–64. https://doi.org/10.1590/S0104-11692008000300020.

Braun, Kathryn L. and Rhea Nichols 1997. "Death and Dyıng in Four Asian American Cultures: A Descriptive Study." *Death Studies* 21 (4): 327–59. https://doi.org/10.1080/074811897201877.

Nobin, J Le, F-R Pruvot, A Villers, V Flamand, and S Bouye. 2014. "Family Refusal of Organ Donation: A Retrospective Study in a French Organ Procurement Center." *Progrès En Urologie : Journal de l'Association Française d'urologie et de La Société Française d'urologie* 24 (5): 282–87.

Oğuz Güner, Yasemin, and Eyyüb Ensari Cicerali. 2021. "Organ Bağışında Psikolojik ve Kültürel Etmenler." *OPUS Uluslararası Toplum Araştırmaları Dergisi* 17(38):5735-5763.

Ohnuki-Tierney, Emiko. 1994. "Brain Death and Organ Transplantation: Cultural Bases of Medical Technology." *Current Anthropology* 35: 223–54.

Özbolat, Abdullah. 2017. "Organlarımla Dirilmek İstiyorum.'- Organ Bağışının Dini-Toplumsal Arkaplanı." *Çukurova Üniversitesi İlahiyat Fakültesi Dergisi* 17 (1): 61–87.

Pessoa, João Luis Erbs, Janine Schirmer, and Bartira De Aguiar Roza. 2013. "Evaluation of the Causes for Family Refusal to Donate Organs and Tissue." *ACTA Paulista de Enfermagem* 26 (4): 323–30.

Resmi Gazete. 1979. *The Law on Organ and Tissue Removal, Storage, Vaccination, and Transplantation*. *Resmi Gazete*. Turkiye: https://www.resmigazete.gov.tr/arsiv/16655.pdf.

Rumsey, S., D. P. Hurford, and A. K. Cole. 2003. "Influence of Knowledge and Religiousness on Attitudes toward Organ Donation." *Transplantation Proceedings* 35 (8): 2845–50. https://doi.org/10.1016/j.transproceed.2003.10.078.

Şenyuva, Emine. 2022. "Knowledge and Attitude of Society Concerning Organ Donation in Turkey." *Journal of Religion and Health* 61 (3): 2102–20. https://doi.org/10.1007/s10943-021-01392-6.

Soysal, Metin. 1968. "Amerika'da Toplanan Üç Bin Meşhur Doktor En Önemli Konuyu Tartıştı: Kime Ölü Diyeceğiz[Three Thousand Famous Doctors Gathered in America Discussed the Most Important Issue: Who Are We Going to Call Dead?]." *Hürriyet*, October 18, 1968.

Spoor, M. T. and F. R. Sutherland. 1995. "The Evolution of the Concept of Brain Death." *Annals Royal College of Physicians and Surgeons of Canada* 28 (1): 30–34.

Taşcı Yıldırım, Emine. 2020. "İbn Sînâ'da Ruh-Nefs Kavramı ve Ruh Kasidesi Bağlamında Ruhun Bedenle Olan Münasebeti [The Concept of Soul-Nafs in Avicenna and the Relationship of the Soul with the Body in the Context of The Soul Qasida]." *Mesned İlahiyat Araştırmaları Dergisi* 11 (2): 671–92.

Uğur, Zeynep Burcu. 2018. "Unwillingness to Organ Donation and Religious Concerns in Turkey." *İnsan & Toplum Dergisi* 8 (3): 35–50. https://doi.org/10.12658/M0257.

Vos, Gail De. 2008. "Urban Legends." In *Storytelling: An Encyclopedia of Mythology and Folklore*, edited by Josepha Sherman, 479–80. New York: M. E. Sharpe Inc.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310069

The Famine of 1921-1922 and Modern Kazakh Society

Aitmagambetov Duman Ramazanovich

Candidate of Historical Sciences, Associate Professor, L.N. Gumilyov Eurasian National University, Kazakhstan
dumanad@mail.ru

ABSTRACT: The article is devoted to a historical and geographical overview of the famine in Kazakhstan during 1921-1922 and its reflection in the modern appearance of Kazakhstanis. In Kazakhstan, this famine is known as the first famine of the Kazakhs under Soviet rule. The main purpose of this work is to familiarize foreign researchers and readers with the topic of the famine of 1921-1922 and its consequences. As a research task, the author attempted to present to the reader the main causes of famine in Kazakhstan, the scale of damage and the impact of famine on the life of the indigenous population of the republic in modern times through a review of historical and demographic analysis. The peculiarity of the research methodology is the generalization and systematization of works on the subject and conclusions regarding the traces of injuries in the minds of the population. The author concludes that not all aspects of the famine of 1921-1922 have been sufficiently studied, among the necessary to study, in addition to historical-demographic and landscape-climatic aspects, the author also includes historical-geographical and migration aspects. The article uses new archival materials and the latest research of Kazakhstani scientists and historians on the topic in recent years, which allows us to delve even deeper into the thick of those events.

KEYWORDS: famine, food spread, Kazakh famine, demographic crisis, migration, mental trauma, historical memory

Introduction

A particularly relevant topic in the modern history of Kazakhstan is the famine of the Kazakhs in the first half of the twentieth century. During this period of time, three major famines occurred in the steppe. These are the famine of 1917-1919 in Turkestan, covering 1/3 of Kazakhstan (loss of about 1 million people), the famine of 1921-1922 with half of the territory of the Republic (loss of population over 1 million) and the mass famine in 1930-1933, which covered the entire region of Kazakhstan and with a terrifying loss of 1.5 to 3 million people. For a long time, the famine of the 20s of the twentieth century was not sufficiently studied and required a comprehensive study taking into account the economic, social and political factors of this period. To date, the topic is also relevant because new data of archival documents were introduced into scientific circulation after Kazakhstan gained independence, and the process of declassification of archival documents gradually began, which made it possible to study the causes and consequences of this famine even more deeply. For most foreign researchers, the topic of famine in 1921-1922 in Kazakhstan is of some interest due to the enormous losses of human resources, especially among the Kazakh population. So, what caused such a tragic consequence like starvation? Which regions were affected by famine? How did the Kazakhs survive in the famine years and who is responsible for this famine? Was the famine of 1921-1922 artificial? How have the consequences of hunger and mental trauma changed the consciousness of an entire nation over the years? Finding answers to these questions will be our subject of research.

History, analysis and result

For most Soviet historians, respectively, during the Soviet period, as well as most domestic researchers, the famine in Kazakhstan in the 20s of the twentieth century was considered for some time an integral part of the general famine in Russia, the Volga region and the Urals, and thus,

often, fell out of the field of view of a separate study. A characteristic feature of the famine was its locality, since in Kazakhstan, the entire territory was not affected by the famine, but its individual parts. For example, the famine of 1921-1922 covered mainly the north-western regions of the Kazakh Soviet Republic.

A peculiar feature of the Kazakh nomad lifestyle has always been accompanied by great difficulties and risks like hunger and disease in the steppe. As a kind of natural law, famine in the steppe was repeated every 10-12 years. The terrible famine of 1897 and 1899 in the Turkestan region greatly undermined the cattle breeding economy of the Kazakhs. The famine of 1910-1911 in the greater territory of Kazakhstan also had the consequences of the death of livestock from lack of fodder.

After the end of the Civil War, the Soviet people, including the Kazakhs, were waiting for another terrible ordeal. The year 1921 was in winter without snow, and in summer without rain, many areas of the country, especially the Volga region, were affected by drought, the consequence of which was famine. In the autumn of 1921, the number of hungry people reached 20 million throughout the country (the Soviet State) (Khaidarov 2021, 159). Kazakhs as a nomadic people with millions of herds of horses and sheep, this famine left an indelible mark on demography and economy. So, historians note the following main causes of famine: World War I; the uprising of the Kazakhs against tsarism in 1916; exorbitant taxes on the population; Civil war; the policy of «war communism», which brought agriculture into decline.

The famine mainly affected the western provinces of the Kazakh Republic, such as Orenburg, Ural, Aktobe, Kustanai, Bukeevskaya and Adayevsky counties. A total of 20 districts and 21 counties were affected by famine (Musaev 2006, 62-63). Of the seven provinces of KazASSR, five were declared starving (in these years, the southern and southeastern regions were part of the Turkestan Republic). The total area covered by the famine was 1,048,100 square kilometers with a population of 2,633,300 people. As of November 1921, the number of starving people for both sexes was 1,558,927 people or 60% of the population [*CSARK, 25:9*]. And already in April 1922, their number reached 93%, and this is already 2,448,969 starving (Masanov 2000, 368).

At that very time, the cattle farming was in a very difficult situation. According to archival documents, in 1917 there were 29.7 million cattle in the Republic, in 1920 – 9.7 million, in 1921 there were only 6.2 million, the reduction was 83% (APRK, 211:38). But on March 18, 1921, the Bolsheviks considered the issue of taking cattle from the Kazakhs to help the starving of other provinces of Russia. Despite the objections of local economists about these disastrous consequences, the food tax was approved. Along with the withdrawal of livestock, there were other taxes, for example, in 1921, such types of taxes were withdrawn from the population: 1. Egg tax. 2. Oils. 3. Wool. 4. Meat. 5. The Seine. 6. Bread. 7. Vegetables. 8. Tobacco. 9. Skins (APRK 107:83).

All segments of the population, all authorities and public associations took an active part in the fight against hunger. The leadership of Kazakhstan wrote letters to draw Stalin's attention to the catastrophic situation in the Kazakh steppe. They wrote that in some villages people die by the hundreds, and they eat not only cats, dogs, surrogates, but it comes to cannibalism (Kindler 2017, 76). The head of the Government of Kazakhstan, S. Mendeshev, was the chairman of the Central Commission for Famine Relief. In his report of July 8, 1922, *The Question of hunger*, he summarizes the work of the commission, where he emphasized the role of international institutions in the fight against hunger. He mentioned the work of such organizations as the International Workers' Committee, the Red Cross Society, the American Famine Relief Administration (ARA) and the Quaker movement (Mendeshev 2021, 12). In June-July 1922, 339,508 children and 860,041 adults received meals in canteens and from warehouses of the Orenburg branch of the ARA. But in the following years, the amount of rations from the ARA began to decrease as hunger in the region comparatively eased.

The activities of foreign international organizations such as the American Relief Administration, the Nansen Mission and others cannot be overlooked. They have made a huge financial and humanitarian contribution to the fight against hunger not only in these provinces, but also throughout the country. At the All-Russian meeting of the Famine Relief Commission, which was held on December 2, 1921, the commission recognized the activities and assistance of the ARA organization and the mission of Dr. Nansen as the main rescuers in helping the hungry (SAWKR 23: 151-154). Of course, the Kazakh people are very grateful to the American people for their help in saving the population, especially children from terrible hunger. Nowadays, contemporaries in Kazakh society are the second and third generations of those who were able to survive during the years of famine.

According to the official report of the center, 2,286,591 people experienced hunger, and 68% of them died, and this is 1,554,882 people (Darkenov 2013, 75). The well-known Kazakh historian-demographer M. Tatimov carried out scrupulous work on the registration and movement of the population of Kazakhstan using census data and statistical materials of accounting bodies. According to his calculations, as a result of the national liberation uprising of 1916, the revolutions of 1917 and the civil war, the aftermath of the famine of 1921, 950 thousand Kazakhs died, 200 thousand migrated outside the country. In the first quarter of the twentieth century alone, the decline of Kazakhs amounted to over 1 million people (Tatimov 1992. 134). According to his calculations, if these tragedies had not occurred (meaning artificial, by human hands) on Kazakh land, with a stable population growth of 4 million by the beginning of the twentieth century, there would be at least 40-45 million Kazakhs today.

An American historian and writer, a specialist in the history of the USSR, the author of the book *Harvest of Sorrow*, Robert Conquest wrote, making parallels between the two famines in Kazakhstan in 20-30 years, that the famine in Kazakhstan in the 30s was caused artificially, in the same way as in 1921, that is, it arose as a result of reckless conduct a policy dictated by purely ideological considerations (Conquest 1988, 293). This point of view is also confirmed by the German historian R. Kindler. In his book «Stalin's Nomads: Power and Famine in Kazakhstan», he begins with the narration of an event from 1921. He writes that the Communists, who had the opportunity due to their position, observed the deplorable pictures that took place (Kindler 2017, 76-77). Based on various data on the number of deaths from hunger (including from diseases, in most cases from malnutrition and unsanitary conditions), it is assumed that the total number of victims of the famine of 1921-1923 is from 1 to 1.5 million, the decline of the Kazakh population is from half a million and above. The data is still being clarified, scientific projects are underway to study hunger and its victims, scientific studies of hunger and its victims are being conducted within the framework of numerous projects.

Modern Kazakh society understands very well the price of hunger and its consequences. Until now, the older generation reminds the young to be economical, not to be wasteful and take care of bread. We still remember how our grandparents always collected bread crumbs from the table and did not throw them away, but carefully put them in their palms and ate them to the last, while they always remembered their parents and their difficult childhood years. And such examples can be found everywhere in the country, since the famine affected almost every family. The historical memory of the famine, even after a hundred years, has not lost its significance in the consciousness of the people in terms of cultural and social identity and continuity. As the historian Sarah Cameron correctly noted, how to preserve hunger in the memory of modern Kazakhstanis, how Kazakhs interpret memories of the catastrophe to their descendants, how they are woven into their consciousness and intellect, there is still a lot to study (Cameron 2018, 187). But the fact remains that these two famines of the 20-30s changed the Kazakhs beyond recognition, a new national image of the Soviet Kazakh, meek, obedient and very cautious, has developed. Its cultural and mental core was changing, as the process of Russification and the planting of an alien element of culture and education went on

intensively for decades. But the current situation in modern Kazakh society is changing from the side of the national origin, obsolete and unnecessary features of the past are giving way to more cultural elements of modernity. And therefore, a person of independent Kazakhstan has more clearly visible traits of wisdom and creativity, hope for a bright future without violence and non-repetition of the mistakes of history.

Conclusion

Summing up, it can be said that the famine of 1921-1922 occupies a special place in the history of Kazakhstan. It was not without the participation of the human factor that most of it was artificial. Since knowing the difficult situation in Kazakhstan, the authorities neglected to help the hungry, they did the opposite, and the cattle left in the steppe were taken to other starving regions of Russia. It can be said that there was some discrimination not in favor of nomadic Kazakhs. Some may object to this opinion. Of course, there were also natural and climatic conditions, but they were before this event and the nomads coped with such phenomena. It means that with grain reserves and a certain number of domestic animals still in possession of the Kazakhs, the potential existed to save them from severe hunger, were it not for directives and decrees from above regarding the withdrawal of food and remaining livestock from the population. The Kazakh people survived this tragedy at the cost of great losses and tangible cataclysms in society. With huge help from outside, in the person of foreign international organizations, as the American Relief Administration (ARA), a large number of people, especially children, were rescued.

Kazakhs and Kazakhstanis have survived all these tragedies and have been preserved as an integral ethnos. In the modern world, Kazakhs, as a people and Kazakhstan, as a country, are known to all, but not everyone knows how they overcame all these difficulties. They do not forget their roots and history lessons! They are descendants of those Kazakhs, but the realities of the event have transformed them. There is still a lot of catching up to do in terms of culture, economy, and self-realization. However, the modern nation has already shown outstanding achievements in culture, sports, and education in recent years, indicating that they are moving in the right direction.

References

Archive of the President of the Republic of Kazakhstan (APRK). Fund 139, inventory 1, case 211 and case 107.

Cameron, S. 2018. The hungry steppe: famine, violence, and the making of Soviet Kazakhstan. Itaka, New York: Cornell University Press.

Conquest, Robert. 1988. *The harvest of sorrow. Soviet collectivization and terror by famine.* Translated from English by Israel Cohen and Neli May. London: Overseas Publications Interchange Ltd., in Russian

Darkenov, K. 2013. „The famine of 1921-1922 and the „Torgai affair." *Akikat*, No. 5, in Kazakh.

Haidarov, E.E. 2021. „The famine in the Ural province (1921-1922)." *Otan Tarikhy*, No. 4 (96), on Kazakh.

Kindler, Robert. 2017. „Stalin's Nomads: Power and Famine in Kazakhstan," translated from German by L.Y. Pantina. Moscow: Political Encyclopedia, in Russian.

Masanov, N.E., Abylkhozhin Zh.B., Erofeeva I.V., Alekseenko A.N., Baratova G.S. 2000. „History of Kazakhstan: peoples and cultures." Almaty: Dyke-Press, in Russian.

Musaev, B.A. 2006. Famine in 1921-1922 in Kazakhstan and elimination of its consequences. Study guide. – Aktobe: Print A, in Russian.

Seitkali, Mendeshev. 2021. A word on the «question of famine» (translated by Sabit Shyldebai). Egemen Kazakhstan. In Kazakh.

State Archive of the West Kazakhstan region (SAWKR). Fund 19, inventory 1, case 23.

Tatimov, M. B. 1992. Population or number and consciousness: demographic reflections. Almaty: Writer, in Kazakh.

The Central State Archive of the Republic of Kazakhstan (CSARK). Fund 393, inventory 1, case 25.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310072

The Fear of Technology in Horror Movies: A Comparative Film Analysis Through the Lens of Sociotechnical Imaginaries

Hüseyin Cenk Erdem

Department of Science, Technology and Society, Istanbul Technical University, erdem22@itu.edu.tr

ABSTRACT: Science, Technology, and Society (STS) studies examine the social and cultural factors that shape public perceptions of technology. This study problematizes technology representation in horror movies by considering the sociotechnical imaginaries literature and explores the sociocultural effects of technological opacity and the existential fear of losing control. The qualitative research explores the fear of technology in horror movies, comparatively analyzing the discourses of AI technology in three films purposefully selected in terms of their popularity in the last five years: *Upgrade* (2018), *Child's Play* (2019), and *M3gan* (2022). The study concentrates on these movies because, in the past five years, the fear of artificial intelligence has been further fueled by speculative technology development information circulation, including Elon Musk's neurotechnology company Neuralink's goal to develop implantable brain-computer interfaces (BCIs). Merging human consciousness with AI technologies has generated fears of loss of privacy and potential control over one's own thoughts and actions. The fear of AI has also been heightened by the emergence of humanoid robots, notably Sophia, developed by Hanson Robotics. Sophia's human-like appearance and advanced AI capabilities have generated both fascination and fear. This study encourages critical thought on the effects of technical opacity that influence our interactions with developing technology by investigating the depiction of technology in these movies. Findings would help us grasp the complex relationship between technology and fear. In order to create informed dialogues about the moral, social, and cultural effects of technological breakthroughs, it asks for increased transparency and critical engagement with technical processes.

KEYWORDS: Sociotechnical Imaginaries, Technology Representation, Horror Movies

Introduction

The rapid growth of science and technology in today's connected world has a significant impact on how we live our daily lives and how the public perceives the world. Science, technology, and society (STS) studies focus on figuring out how technological advancements interact with their larger societal context.

It is not possible anymore to consider the public as an anonymous mass of people supporting any scientific or technological advancement. Both scientists and those responsible for scientific policy have had to persuade the public, earn their support, or hold them back. People now need a basic understanding of science and technology at many different levels of everyday life when making decisions, whether they are personal or global. Sharing knowledge plays a crucial role in public debates over science and technology, which have become increasingly common over the 20th century. These debates often center on questions of participation and control. As knowledge advanced and harmful effects surfaced, blind faith in science disappeared (Felt 2000, 2-11).

This research aims to investigate how AI technology is portrayed in horror films, a fascinating topic that provides insightful information on the worries and apprehensions associated with contemporary technological advancements. The AI discussion is still up for grabs. According to some well-known technologists, AI will catch up to or surpass human intelligence in ten years. Others say that growth is gradual and that such breakthroughs are at least a century away (Manning 2020, 7).

Because of their extreme novelty, unpredictability, and ambiguity, emerging technologies have become a source of risk. These dangers range from the invasion of privacy by Internet applications to the safety concerns around genetically modified technologies and others, such as the security risk posed by autonomous vehicles. Emerging technological risk is slower, concealed, coupled, and unknown than traditional risk, which increases the likelihood that it may cause societal anxiety and possibly mass incidents (Li and Li 2023, 1).

In recent years, the sociotechnical imaginaries literature has become an important framework for examining the dynamic interaction between technology and society. This study, which builds on this theoretical underpinning, aims to investigate the sociocultural implications of technical opacity and the existential fear of losing power, as represented in horror movies. The research intends to offer insight into how these narratives mirror and intensify real-world worries and apprehensions about rapidly expanding technological environments by examining the fear of technology shown in these films.

Three recent horror movies—"Upgrade" (2018), "Child's Play" (2019), and "M3gan" (2022) —are the subject of this qualitative study. These films were chosen on purpose because of their widespread appeal in the last five years and their examination of the anxiety around artificial intelligence (AI) technology. In the past five years, speculative information regarding technical advancements, such as Elon Musk's neurotechnology business Neuralink's plans to produce implanted brain-computer interfaces (BCIs), has fanned the dread of AI more and more. Concerns about losing privacy and control over one's thoughts and actions have been raised by the concept of fusing human consciousness with AI technologies.

These worries have grown as humanoid robots, most notably Sophia from Hanson Robotics, have come into existence. Sophia has captured the public's interest in a way that is both fascinating and unsettling due to her remarkably human-like looks and sophisticated AI capabilities. These technical representations in horror films provide a distinctive prism through which to examine society's perspectives and anxieties about artificial intelligence (AI) and sophisticated robots, inspiring critical analysis of the societal ramifications of our technological innovations. In the modern horror genre, the focus has switched from the monster that formerly served to reinforce our own inherent humanity to the technological advancements that are redefining what it means to be human (Powell 2017, 56).

The study aims to promote critical thinking about how technological opacity affects our interactions with emerging technology. The goal of the study is to identify underlying societal concerns and phobias by examining how technology is portrayed in horror films. This will help us better comprehend the complex relationship between technology and dread.

The predicted results of this study have important significance for promoting educated and fruitful discussions concerning the ethical, social, and cultural effects of technological advancements. The project promotes a more nuanced understanding of how horror films reflect public perceptions of technology because of technological opacity. Ultimately, this information can help to direct ethical technology advancement, policy-making, and public discourse, producing a culture that embraces technological advancement while being aware of its possible drawbacks.

Representation of Technological Advancements

Kaplan and Haenlein define artificial intelligence as a system's ability to correctly interpret external data, to learn from such data, and to use those learnings to achieve specific goals and tasks through flexible adaptation" (Kaplan and Haenlein 2019, 1). Robotics and artificial intelligence are frequently discussed in popular culture. The iconic instance of HAL, a spacecraft's intelligent control system that turns against its human passengers, first appeared in the Stanley Kubrick classic "2001" in 1968. Since 1984, the Terminator films have been based on the premise that a neural network created for military defense purposes becomes

self-aware and turns against its human designers in order to prevent being deactivated. The 2001 film "A.I." by Steven Spielberg, which was adapted from a short tale by Brian Aldiss, examines the personality of an artificial youngster with intelligence.

Based on events in an Isaac Asimov novel, the 2004 film "I, Robot" depicts sentient robots that were created to defend humanity but are now becoming a threat. The 2016 television series "Westworld" is a more recent version, where androids provide entertainment for human visitors to a Western theme park. The visitors are urged to indulge in their most fervent fantasies and desires. Robots with intelligence, autonomous vehicles, neurotechnological improvements to the brain, and genetic modification are evidence of profound change that is occurring at an exponential rate. Previous industrial revolutions freed humans from using animal power, allowed for mass production, and gave billions of people access to digital technology. But there is something profoundly different about this Fourth Industrial Revolution. A variety of new technologies that are integrating the physical, digital, and biological worlds, affecting all disciplines, economies, and sectors, and even questioning notions of what it is to be human, are what define it (Bartneck, Lütge, Wagner, and Welsh 2021, 25).

Recently, robotics and artificial intelligence have been frequently depicted in popular horror movies. In fact, movies have a long history of straying from scientific reality. Six intrepid individuals travel to the moon in a capsule that is blasted from a huge cannon in George Méliès' 1902 motion picture A Trip to the Moon. The explorers come into contact with moon dwellers, who capture them when the capsule smashes into the moon's eye in a spectacular sequence. The moon people push them off the moon after they've made it back to their capsule, where they safely land in the ocean before falling back to earth.

The most worrisome scientific images involved "modification of and intervention into the human body, the violation of human nature, and threats to human health by means of science," according to a study by Weingart, Muhl, and Pansegrau of 222 films that show science (Weingart, Muhl, and Pansegrau 2003, 1).

In essence, science fiction is a direct engagement with modern society that sits at the intersection of technological, scientific, critical, and social ideas because it shapes our perceptions of what is possible now and in the future. Analyzing the shared aspirations and anxieties that drive such conceptions anchors us in the social realities that serve as the foundation for science-fictional imagination (Schmeink 2016, 19).

Societal Fear of Science and Technology

The societal fear of science even has roots in Western folklore and literature. The Faustian Legend was similar to the widespread notion that science was a secretive, illegally acquired branch of knowledge with strong ties to magic. The notion of a scientist as a magician develops when the experimenter is perceived as unintentionally meddling with nature and he looks to be a threat because he wants to unleash forces of nature that should be "left as they are." It is a Faustian deal that the scientist makes with the powers of darkness rather than the forces of light in exchange for satisfying his curiosity about the nature of the world and man. The fact that alchemy was integral to the "new science" and that "natural Magick" was another facet of it served to support the notion that experimental science and dark forces, like magic, are closely related. For instance, the chemical laboratory was constructed below, deep in the basement, beneath groined stone arches, from the fifteenth through the eighteenth and well into the nineteenth centuries. But there were more indications of mistrust or fear of science dating back to its inception than just the hint of magic and black art. The scientist was frequently despised and mistrusted because he promoted a different route to knowledge than the one established by God's revelation, because he meddled with natural laws and attempted to defy God's will, and because he conducted experiments that could have disastrous results (Cohen 1981, 2).

In particular, a concern that we are harming ourselves through science and technology or that we are losing control is reflected in science fiction as a fear of life in the future. This may help to explain why the Frankenstein legend has been so well-liked throughout science fiction history. Science's greatest hope is for man to play God by creating life, but its greatest fear is for that life to be found to be soulless and without purpose (Doll and Faller 1986, 1).

Sociotechnical Imaginaries

Sheila Jasanoff and Sang-Hyun Kim first used this concept in 2009 when they compared and contrasted South Korean and American sociotechnical nuclear energy imaginaries from the latter half of the 20th century. In addition to conducting expert interviews, Jasanoff and Kim looked at social protests, technological and infrastructure advancements, national policies, and government representatives' discourse. Sociotechnical imaginaries may be developed by governments and policymakers, by specialized social organizations, or by a combination of the two (Jasanoff & Kim 2009, 120). Jasanoff and Kim came to the conclusion that while in the US the prevailing sociotechnical imaginary viewed nuclear energy as hazardous and in need of containment, in South Korea nuclear energy was primarily envisioned as a method of fostering national growth. Certain groups, societies, and countries have sociotechnical imaginaries for what they believe is possible when science and social transformation are combined. These visions may reflect what a particular society is capable of doing as well as what a particular state or country aspires to. Sociotechnical imaginaries are potent conceptual tools that influence both the present and the future. These generally held views of desirable futures are grounded in common perceptions of the social order and standard of living that can be attained through scientific and technological progress. Imaginaries become powerful in shaping our views on innovation and technology when they are consistently performed and supported by institutions.

Moreover, in popular culture, movies also influence the public's perception of technology through their depiction of technology. They may reflect the societal fears of technology, but at the same time, they reinforce the anxieties about technological advancements. Recent years have seen a rise in the importance of sociotechnical imaginaries as scholars have come to understand their influence on social transformation. They provide us with an understanding of our anxieties as well as a glimpse into the potential of science and technology.

Societal Reflections in Horror Movies

In recent movies, there has been an increase in the depiction of new technologies, particularly in the representation of genetic modification, especially in horror movies that emphasize how out-of-control it has become, including 28 Days Later (2002), Komodo (1999), Flying Virus (2001), and Frankenfish (2004). In fact, the risks of genetic alteration have taken on the role of nuclear radiation's perils in a number of remake movies. In the Spiderman (2002) remake, he gains his abilities after being bitten by a genetically altered spider rather than a radioactive spider, and in the Hulk (2003) remake, he gains his abilities as a result of his father's genetic engineering studies rather than gamma radiation. The veracity of the depictions of biotechnology is greatly overstated in each of these movies to enhance the drama (Cormick, 2006, 2).

In the past five years, there have been impressive technological advancements, particularly in artificial intelligence and robotics technologies, and this study purposefully picks up three popular movies in the last five years: Upgrade (2018), Child's Play (2019), and M3gan (2022) and aims to analyze the discourses of artificial intelligence technology in these three films, exploring the clues of broader societal fear of technology in their depiction of AI.

In the not-too-distant future setting of popular horror writer and director Leigh Whannel's 2018 horror film “The Upgrade”, technology dominates almost every facet of daily

life. But when the antagonist Grey's (Logan Marshall-Green) self-defined technophobe world is turned upside down, his only chance for vengeance is an untested computer chip implant.

Blue collar mechanic Grey and his wife Asha's (Melanie Vallejo) self-driving car crashes in the movie when it experiences problems. Then some people come, and a man kills Asha. Asha bleeds to death next to Grey as he stares helplessly. He becomes depressed because the police were unable to find their assailants. He is given the option to have a high tech chip inserted to enable him to walk after attempting suicide. He is finally convinced to have the surgery despite his initial reluctance (IMDB 2018).

The setting depicts near future in which everything is automated, including self-driving cars and intelligent devices, in the movie and the movie portrays Grey as detached from this technology-driven era. The underlying message is that the movie does not embrace advanced technologies from the very beginning. Then, after a tragic self-driving car accident, a brilliant scientist named Eron (Harrison Gilbertson) comes to the scene and offers to perform an experimental procedure on Grey in order to implant a device called STEM, which is essentially an Artificial Intelligence that enables Grey to walk again by connecting his brain and his nervous system. After he learns that STEM (voiced by Simon Maiden) has a mind of its own and has given him the capacity to turn into a killing machine, the movie represents the dangerous potential of artificial intelligence. The movie also refers to societal anxieties about autonomous vehicle accidents with the story's tragic self-driving car accident scene.

When STEM viciously murders a man for the first time in a kitchen fight, The movie shows that the Artificial Intelligence device STEM implanted in him asks Grey's permission to operate and gets out of control. The broader societal fears may stem from the fear of losing control and, here we see an artificial intelligence device get all the control and become something dangerous.

The plot of the 2019 remake of the classic horror film "Child's Play (1988)" revolves around a mother (Aubrey Plaza) who, ignorant of its more sinister nature, gives her 13-year-old son (Gabriel Bateman) a toy doll for his birthday (IMDB 2019). This remake of one of the most popular horror movies of all time adds a kind of warning about artificial intelligence, and this time the famous horror icon Chucky operates with artificial intelligence. Chucky played the Lakeshore Strangler, a serial killer who transplanted his soul into a doll, in the original "Child's Play," created by the writer Don Mancini (IMDB 1988).

The new Chucky doll in the remake is a robot operating with artificial intelligence. A factory worker removes Chucky's safety features at the start of the movie. After all, Chucky turns into a fiercely dangerous robot that operates with artificial intelligence. The new slasher horror reboot of the Chucky franchise, which was directed by Lars Klevberg, represents a Chucky with artificial intelligence. AI Chucky's capabilities are broad in the movie because he can link to smart devices, including drones, self-driving cars, thermostats, and televisions.

In the Universal film M3gan, director Gerard Johnstone and screenwriter Akela Cooper tell a new scenario of what happens when androids with artificial intelligence (AI) turn deadly. In the movie, Under extreme pressure at work, a toy company's robotics engineer, Gemma (Allison Williams), decides to pair her lifelike doll M3GAN prototype with her niece Cady (Violet McGraw), and M3GAN starts to act independently (IMDB 2022).

A well-dressed robot tucking kids into bed isn't the only way artificial intelligence is already effortlessly incorporated into many aspects of our lives, but "M3GAN" raises concerns about how dependent we are on it. We frequently use the built-in assistants of Apple and Amazon products, Siri and Alexa, respectively. Many customers clamor to get Teslas because of their semi-autonomous driving features. "M3GAN is a metaphor for a lot of stuff happening in our lives, including the unintended consequences of autonomous robotics," said Daniel H. Wilson, a science fiction novelist and former roboticist, in an interview with CNN (Andrew 2023, 1). The movie again depicts an advanced form of robot that operates with artificial intelligence and turns into a killing machine.

Conclusions

In this comparative analysis of the discourses of AI technology in three films, Upgrade (2018), Child's Play (2019), and M3gan (2022), this study explores the fear of technology in horror movies in the last five years, fueled by technological advancements in artificial intelligence. It also questions the effects of technical opacity that influence our interactions with developing technology by investigating the depiction of technology in these movies. Robots with intelligence, autonomous vehicles, smart devices, and AI technologies are evidence of profound change in our daily lives. Hence, the broader societal fears of loss of privacy and potential control over one's thoughts and actions may stem from the non-transparent processes of developing new technologies.This study also considers the sociotechnical imaginaries literature and explores the sociocultural effects of technological opacity and the existential fear of losing control. Findings could help us better understand the intricate connection between technology and fear. It asks for greater transparency and critical involvement with technical processes to facilitate informed discussions about the moral, social, and cultural implications of technological advancements. This may also help to soothe all the irrational fears.

References

Andrew, S. 2023. "M3GAN is already an icon. Could existing AI turn her into reality?" *CNN*, June 19. https://edition.cnn.com/2023/01/19/entertainment/m3gan-robot-uprising-cec/index.html.

Bartneck, C., Lütge, C., Wagner, A. R., and Welsh, S. 2021. "An introduction to ethics in robotics and AI." In *SpringerBriefs in ethics*. London: Springer International Publishing. https://doi.org/10.1007/978-3-030-51110-4.

Cohen, I. B. 1981. "The Fear and Distrust of Science in Historical Perspective." *Science, Technology, & Human Values* 6(36): 20–24. http://www.jstor.org/stable/689095.

Cormick, C. 2006. "Cloning goes to the movies." *Historia Ciencias Saude-manguinhos* 13: 181–212. https://doi.org/10.1590/s0104-59702006000500011.

Doll, S., and Faller, G. 1986. ""Blade Runner" and genre: "Film noir" and science fiction." *Literature/Film Quarterly* 14 (2): 92- 93. Salisbury University. https://www.jstor.org/stable/43797512.

Felt, Ulrike. 2000. "Why should the public 'understand' science? Some aspects of public understanding of science from a historical perspective." In *Between Understanding and Trust: The Public, Science and Technology*. Edited by M. Dierkes and C. von Grote: 7- 38. Berkshire: Harwood Academic Publishers.

IMDb. 1988. "Child's play." *www.imdb.com*, November 9. https://www.imdb.com/title/tt0094862/?ref_=fn_al_tt_1.

IMDb. 2018. "Upgrade." *www.imdb.com,* June 1. https://www.imdb.com/title/tt6499752/?ref_=fn_al_tt_1.

IMDb. 2019. "Child's play." www.imdb.com, June 21. https://www.imdb.com/title/tt8663516/?ref_=fn_al_tt_1.

IMDb. 2023. "M3GAN." *www.imdb.com*, January 6. https://www.imdb.com/title/tt8760708/?ref_=nv_sr_srsg_0_tt_4_nm_4_q_m3g.

Jasanoff, S., and Kim, S. 2009. "Containing the Atom: sociotechnical imaginaries and nuclear power in the United States and South Korea." *Minerva* 47(2): 119–146. https://doi.org/10.1007/s11024-009-9124-4.

Kaplan, A., and Haenlein, M. 2019. "Siri, Siri, in my hand: Who's the fairest in the land? On the interpretations, illustrations, and implications of artificial intelligence." *Business Horizons* 62(1): 15–25. https://doi.org/10.1016/j.bushor.2018.08.004.

Li, C., and Li, Y. 2023. "Factors Influencing Public Risk Perception of Emerging Technologies: A Meta-Analysis." *Sustainability* 15(5): 3939. https://doi.org/10.3390/su15053939.

Li, G., Hou, Y., and Wu, A. 2017. "Fourth Industrial Revolution: technological drivers, impacts and coping methods." *Chinese Geographical Science* 27(4): 626–637. https://doi.org/10.1007/s11769-017-0890-x.

Manning, R. A. 2020. "Emerging Technologies: New Challenges to Global Stability." New York: Atlantic Council. http://www.jstor.org/stable/resrep26000.

Powell, D. 2017. "Digital Dissonance: Horror Cultures in the age of Convergent Technologies." University of Central Florida. STARS. Accessed June 1, 2023. https://stars.library.ucf.edu/etd/5482.

Schmeink, L. 2016. "Biopunk Dystopias." In *Dystopia, Science Fiction, Posthumanism, and Liquid Modernity.* Essay, 19–20. Liverpool: Liverpool University Press.

Weingart, P., Muhl, C., and Pansegrau, P. 2003. "Of Power Maniacs and Unethical Geniuses: Science and Scientists in Fiction film." *Public Understanding of Science* 12(3): 279–287. https://doi.org/10.1177/0963662503123006.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310075

Public Interest – Essential Concept of Administrative Law

Elena Emilia Ștefan

Associate Profesor, PhD, „Nicolae Titulescu" University, Bucharest, Romania, stefanelena@univnt.ro

ABSTRACT: One of the greatest challenges of the public administration is undoubtedly to adopt adequate measures for the population in order to carry out the work of enforcing laws and providing public services in such a way as to ensure the necessary balance between the public interest and the private interest. In this respect, public authorities, when issuing administrative acts, may infringe legitimate rights or interests. Given that the issue of upholding fundamental rights remains an increasingly important concern for both citizens and public entities, it demands considerable attention, particularly from legal experts. From this point of view, the scope of this paper is to provide knowledge of the general legal framework regarding the regulation in Romanian law of the right of a person aggrieved by a public authority. In order to achieve the proposed scope, the paper is organized into three parts. Part I presents a brief introduction to the general theme of the topic. Part II investigates the practical importance of the distinction between public and private interest in administrative law. Part III focuses on analysis of the public interest motivation in the European Ombudsman's case law.

KEYWORDS: Constitution, public administration, public interest, contentious administrative, European Ombudsman

1. Introduction

The assumption from which we start our analysis is that, in its daily work, public administration is dominated by the regime of public power, i.e., the legal regime in which the public interest takes precedence over the private interest. According to the doctrine: "In public administration, day-to-day activity takes place in a certain dynamic and cannot be deemed as a static activity, even though it can often be the result of a civil servant's inaction or even a natural event, both of which produce legal effects" (Ștefan 2022, 12).

One of the general principles applicable to public administration is the principle of satisfying public interest (Administrative Code, art. 10). As Tudor Drăganu pointed out: "whereas strict observance of the laws in the performance of the executive activity of the state is likely to bring about not only disturbances in its proper operation, thus generating conflicts of jurisdiction, overlapping of activities, unnecessary expenses (...) but also infringements (...) of the rights and interests of citizens, one of the main tasks of the rule of law is to provide them with justified means, namely the most effective means of restoring the violated legal order" (Drăganu 1992, 153). One of these legal levers is the contentious administrative and our paperwork will develop one of the conditions for the promotion of legal action: "the violation of the legitimate right or interest", with particular reference to the concept of legitimate interest.

From this perspective, by using methods specific to law, the paperwork will emphasize the conclusion that, the specific of the public administration is the fact that public authorities, in their work, are bound to give priority to the satisfaction of the public interest, observing the rights and interests of citizens, according to the law. The scientific research methodology includes the analysis of the proposed topic from a legal, doctrinal and jurisprudential perspective.

2. The practical importance of the distinction between public and private interest in administrative law

To begin with, our analysis starts by explaining that the constitutional grounds of the actions filed in contentious administrative are substantiated on art. 52 called - *Right of a person aggrieved by a public authority*. According to this article: "*Any person aggrieved in his/her legitimate rights or interests by a public authority, by means of an administrative act or by the failure of a public authority to solve his/her application within the lawful time limit, is entitled to the acknowledgement of his/her claimed right or legitimate interest, the annulment of the act and reparation for the damage*" (art. 52 para.1 of the Constitution). According to the doctrine: "nowadays, the interests of leaders at the highest level in states today are huge and long-term, involving future generations, namely: identifying solutions and mechanisms to increase public confidence in state authorities" (Ștefan 2017, 96). Therefore, the contentious administrative is specifically created by the legislator to verify the legality of measures taken by the administration.

In our perspective, in analyzing the meanings of the concepts of: *legitimate interest*, *public authority* or *public administration*, we start from the constitutional text and move on to the specific legislation consisting of Law no. 554/2004 of the contentious administrative and the Administrative Code. Public authority is defined as follows: "*body of the state or of the territorial and administrative divisions, acting in the capacity of public authority, for satisfying a legitimate public interest*" (Law no. 554/2004 of the contentious administrative, art. 1 para. 1 letter b) and public administration shall mean: "*body of the state or of the territorial and administrative divisions, acting in the capacity of public authority, for satisfying a public interest*" (Administrative Code, art. 5 letter k).

Returning to the constitutional text, we point out that it refers to the concept of *legitimate interest.* By analyzing the specific legislation on administrative law and the doctrine, we note that legitimate interest is classified into two categories: public and private (Cliza 2020, 88).

Legitimate private interest is: "*the possibility of claiming a certain conduct in consideration of the realization of a subjective, future and foreseeable, prefigured right"* (Law no. 554/2004 of the contentious administrative, art. 2 para. (1) letter p). Legitimate public interest is: "*interest relating to the rule of law and constitutional democracy, guaranteeing the fundamental rights, freedoms and duties of citizens, meeting the needs of the community and fulfilling the powers of public authorities"* (Law no. 554/2004 of the contentious administrative, art. 2 para. (1) letter r).

With regard to the practical importance of the delimitation of the legitimate interest into public or private, we must know that the doctrine has classified the contentious administrative into subjective and objective.

"*Subjective contentious administrative* exists when the plaintiff, by means of the action brought, asks the court to settle an issue relating to a subjective right or legitimate personal interest, in the sense of investigating whether a typical or similar administrative act has prejudiced a subjective legal situation" (Vedinaș 2023, 423).

"*Objective contentious administrative* exists when the plaintiff, by the action through which the judge was invested, seeks to defend an objective right or a legitimate public interest in ascertaining whether rights which constitute the content of a legal situation of a general and impersonal nature have been infringed and whether a general rule of law has been infringed" (Ibidem).

From this perspective, by analyzing the case-law of the High Court of Cassation and Justice we note that: "based on art. 52 of the Constitution of Romania, which regulates in matter of positive national law, as a general rule, Law no. 554/2004 maintained the subjective contentious administrative as a general rule, and only, by way of exception, established limited

cases of objective contentious administrative: the prefect, the authority issuing the challenged act, the Public Ministry, the National Agency for Civil Servants (Decision no. 8/2020, published in Official Journal no. 580 of 2 July 2020, para. 85)". Furthermore, "*Natural persons and legal entities governed by private law can bring head of claims in defense of a legitimate public interest only subsidiarily, in so far as the prejudice brought to a legitimate public interest follows logically from the infringement of the subjective right or of the legitimate private interest*" (Law no. 554/2004 of the contentious administrative, art. 8 para. 1^1).

By interpreting the legal norm, we note that the actions in contentious administrative substantiated on the prejudice brought to a legitimate public interest are filed by public authorities. "The purpose of the interpretation is to explain the provisions of the legal norm" (Popa et al. 2014, 195). Notwithstanding, the Constitutional Court decided in its case-law the following: "in some cases, namely in consideration of the realization of a fundamental right which is exercised collectively, or, as the case may be, in consideration of the defense of a public interest (...) natural persons may bring an administrative action in defense of a legitimate public interest, especially where a regulatory administrative act is concerned" (Decision no. 256/2006 published in Official Journal no. 341 of 17 April 2006.). Essentially, as the doctrine has rightly pointed out: "The essential role of the Constitutional Court is to guarantee the supremacy of the Constitution" (Barbu et al. 2021, 17).

3. Public interest motivation in European Ombudsman cases

The legal framework for applications regarding public access to documents relating to the European institutions is Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents published in OJ L 145, 31.05.2001). As pointed out: "Regulations have general applicability" (Fuerea 2010, 141).

The Preamble of this normative act provides: "*In principle, all documents of the institutions should be accessible to the public. However, certain public and private interests should be protected by way of exceptions (*par.11). Furthermore: "*In order to ensure that the right of access is fully respected, a two-stage administrative procedure should apply, with the additional possibility of court proceedings or complaints to the Ombudsman* (par. 13)".

According to art. 2 para. (1) of the Regulation: "*Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation"*. The Regulation defines what document means: "*any content whatever its medium (...) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility".* We do not want to develop more in this paper on the problems that may arise in practice in relation to the digitization of public administration and citizens' interaction with the administration in this way. It has recently been stated that "Regulating the digital domain (...) implies the formation of new paradigms in the legal space" (Conea 2020, 11).

At European level, in order to respect the right to good administration (Article 41 - Charter of Fundamental Rights of the European Union), the right to complain to the European Ombudsman is recognized. Further on, after setting out the applicable legal framework, our paper mirrors two specially selected cases which have come to the attention of the European Ombudsman and which have raised the question of whether or not there has been maladministration.

The first case concerns *a request for public access to documents addressed to the European Commission.* The complaint addressed to the European Ombudsman concerned the refusal of the European Commission to grant access to documents containing the positions

taken by Member States in a committee dealing with the risk assessment of how pesticides affect bees. In this case, the Ombudsman's investigation found maladministration.

Briefly, the details of the case are the following: "The complainant, an environmental NGO, made in September 2018 a request for public access to documents containing the positions taken by Member States in a committee dealing with the risk assessment of how pesticides affect bees. The Commission refused access to the documents. It argued that its rules of procedure require that the positions of individual Member States not be disclosed and that public disclosure of Member States' positions would prevent Member States from frankly expressing their views" (Decision in case 2142/2018/EWM on the European Commission's refusal to grant access to Member State positions on a guidance document concerning the risk assessment of pesticides on bees, pronounced on 03.12.2019).

The Ombudsman inquired into the issue and found that the Commission was wrong to refuse access to the documents. She considered that the documents, should benefit from the wider public access granted to 'legislative documents" (Idem). Moreover, she considered that wider public access was needed as the documents contain environmental information. She thus recommended that the Commission disclose the documents. The Ombudsman confirms that the Commission's continued refusal to grant the complainant access to the requested documents constitutes maladministration" (Idem).

We note from the grounds of the case: "Given the critical importance of bees for the environment, the decline in bee numbers and colony losses in recent years, the relevance of the draft bee guidance in this respect and the fact that Member States have not been able to come to an agreement for the past five years, the Ombudsman considers that there is a clear overriding public interest in disclosing the requested documents (para 35)".

The second case concerns a *request of public access to documents addressed to the European Data Protection Board.* The complaint addressed to the European Ombudsman concerned the refusal of the European Data Protection Board to give public access to preparatory documents regarding its statement on international agreements. Following the investigation, the Ombudsman found no maladministration.

Briefly, the case concerns a request for public access to documents held by the European External Action Service (EEAS). Therefore, "The complainant, an NGO, filed the complaint in March 2021. EEAS refused to disclose the documents, arguing that disclosure could compromise the public interest in military and defense matters and the international relations of EU Member States" (Recommendation on the European Data Protection Board's refusal to grant public access to the preparatory documents for its statement on international agreements). The Ombudsman found that "the EEAS decision to deny public access is reasonable and that the EEAS has provided the complainant with sufficient explanations. The Ombudsman thus closed the inquiry, finding that there was no maladministration" (Idem).

We note from the grounds of the case: "The Ombudsman understands the complainant's argument that disclosure of documents is in the public interest, namely that disclosure is necessary to hold the European Union and Member States accountable for their actions. However, she notes that under EU law on public access to documents, the protection of the public interest in international relations cannot be overridden by any other public interest".

4. Conclusions

The analysis carried out revealed how the legislator regulated the right of a person aggrieved by a public authority. Following the analysis carried out, it has emerged that it is constitutionally and legally enshrined. Therefore, article 52 of the Romanian Constitution regulates the right of a person aggrieved by a public authority, the legal framework being supplemented by Law no. 554/2004 of the contentious administrative and the Administrative Code.

Furthermore, we have learned that one of the conditions for filing an action in contentious administrative is the violation of a right and of a legitimate interest, with the clarification that the legitimate interest is classified in two categories: public and private. From the point of view of the practical importance of knowing whether the legitimate interest is public or private, the contentious administrative falls into two categories: subjective and objective, depending on the type of the violation brought to the right or to the legitimate interest. In objective contentious, the legal action is filed, as a rule, by public authorities such as: prefect, the authority issuing the challenged act, the Public Ministry, the National Agency for Civil Servants and exceptionally by natural persons.

Finally, in our opinion a scientific research is not complete if it does not include case-law, therefore, we have also focused on this component of research, as it is well known that "the role of case law is to interpret and apply the law to actual cases" (Popescu 2011, 23). With regard to the public interest motivation, the paperwork presented two cases from the European Ombudsman's case-law. What they have in common is that the subject matter of the complaints concerned the denial of public access to documents. The cases differ in that in the investigation carried out, although the reasoning concerned the public interest, the outcome was different, in the first case it was found to be maladministration and in the second, maladministration was not ascertained**.**

The final conclusion of our paperwork is that the specific of the public administration is the fact that public authorities, in their work, are bound to give priority to the satisfaction of the public interest, observing the rights and interests of citizens, according to the law. Otherwise, one of the legal levers created by the legislator to verify the legality of the measures taken by the administration is the contentious administrative.

References

Barbu, S.-G. Muraru, A. Bărbățeanu, V. 2021. *Elemente de contencios constituțional* (*Contentious Constitutional Elements*). Bucharest: C. H. Beck Publishing House.

Charter of Fundamental Rights of the European Union. Visited on 19.06.2023. https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:ro:PDF.

Cliza, M.C. 2012. *Drept administrativ Partea a II-a (Administrative Law, Part II)*. Bucharest: Universul Juridic Publishing House.

Conea, A. 2020. *Politicile Uniunii Europene* (*European Union Policies*), Bucharest: Universul Juridic Publishing House.

Constitutional Court of Romania, Decision no. 256/2006 published in Official Journal no. 341 of 17 April 2006.

Drăganu, T. 1992. *Introducere în teoria și practica statului de drept (Introduction to the Theory and Practice of the Rule of Law)*. Cluj-Napoca: Dacia Publishing House.

European Ombudsman, Decision in case 2142/2018/EWM on the European Commission's refusal to grant access to Member State positions on a guidance document concerning the risk assessment of pesticides on bees, pronounced on 03.12.2019. Visited on 19.06.2023. https://www.ombudsman.europa.eu/en/decision/ro/122313

European Ombudsman, Recommendation on the European Data Protection Board's refusal to grant public access to the preparatory documents for its statement on international agreements, pronounced on 23 March 2023. Visited on 19.06.2023. https://www.ombudsman.europa.eu/ro/decision/ro/157767

Fuerea, A. 2010. *Manualul Uniunii Europene (The European Union Handbook*) 6th edition, revised and supplemented. Bucharest: Universul Juridic Publishing House.

Government Emergency Ordinance no. 57/2019 on the Administrative Code, published in Official Journal no. 555 of 5 July 2019, with last amendment by Law no. 140/2023, published in Official Journal no. 461 of 26 May 2023.

High Court of Cassation and Justice, Decision no. 8/2020, published in Official Journal no. 580 of 2 July 2020.

Law no. 554/2004 of the contentious administrative, published in Official Journal no. 1154 of 7 December 2004, with last amendment by Law no. 102/2023, published in Official Journal no. 322 of 18 April 2023.

Popa, N. (coord.), Anghel, E. Ene-Dinu, C. & Spătaru-Negură, L.-C. 2014. *Teoria generală a dreptului. Caiet de seminar (General Theory of Law. Seminar Booklet)*, 2nd edition. Bucharest: C. H. Beck Publishing House.

Popescu, R.-M. 2011. *Introducere în dreptul Uniunii Europene (Introduction in the European Union Law).* Bucharest: Universul Juridic Publishing House.

Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents published in OJ L 145, 31.05. 2001.

Ștefan, E.E. 2017. "Legalitate și moralitate în activitatea autorităților publice" ("Legality and Morality in the Work of Public Authorities"). In *Public Law Magazine* 4:96. Bucharest: Universul Juridic Publishing House.

Ștefan, E.E. 2022. *Drept administrativ. Partea a II-a, (Administrative Law, Part II)*, 4th edition, revised and updated. Bucharest: Universul Juridic Publishing House.

The Constitution of Romania.

Vedinaș, V. 2023. *Drept administrativ (Administrative Law)*, 14th edition, revised and supplemented. Bucharest: Universul Juridic Publishing House.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310077

Climate Flexibility: Introducing Nature in National Accounting

Julia M. Puaschunder

Columbia University, Graduate School of Arts and Sciences, 535 W 116th St #109, New York, NY 10027, Julia.Puaschunder@columbia.edu, www.juliampuaschunder.com, http://blogs.cuit.columbia.edu/jmp2265

ABSTRACT: The European and North American Green New Deals have become springfeathers of change in the national and international accounting of natural resources. The European Sustainable Finance Taxonomy accounts for the carbon impact of industries in order to quantify economic impacts on natural resources to make industry impacts on environmental conditions more transparent and accountable. The United States Joseph Biden and Kamala Harris administration has also launched efforts to put nature on the nation's balance sheet. The Biden-Harris White House multi-year strategy plans to connect environmental conditions with economic outcomes by collecting data and using innovative methods to capture nature's role in the U.S. economy. On the global level, integrating natural resources into economic productivity prospects has the potential to change power dynamics and international politics driven by economic opportunities. Linking nature to the economy and productivity as well as the human standard of living is the driver for the World Bank project on "Changing Wealth of Nations." Integrating natural capital in global macroeconomic and financial models is thereby meant to feature systematically forward-looking wealth estimates as a source to inspire restoration and conservation policies. The 'Mapping Climate Justice' project housed at Columbia University measures the impact of climate change on economic productivity around the world and has found vast climate injustices. Future wealth of nations was introduced by the concept of climate flexibility defined as the range of temperature variation of a country. Climate flexibility is the leeway countries have in coping with a changing climate due to a broad range of climate zones prevalent in their territory. Climate flexibility can be grounded on the relative latitude and altitude of countries around the globe. Climate flexibility directly influences a country's productivity in agriculture production opportunities, trade possibilities, industry development favorable conditions as well as service sector offerings. Climate wealth of nations so far has also been proposed to stem from climate zones, which vary around the world. Climate justice redistribution strategies have been proposed in order to alleviate climate injustices, by which countries that benefit from a relative climate advantage are meant to redistribute some of the expected economic gains to countries that lose out the most and the fastest from global warming. The redistribution could be implemented via a taxation-bonds redistribution strategy. Overall, the concerted efforts to marry the idea of natural resource description are believed to stimulate environmental policy and protection, change sustainable development and macroeconomic calculus. Policy and regulatory settings are meant to be aligned with wealth derived from natural resources. Natural resource accounting is also likely to change the estimation of competitiveness around the world. The integration of local community assets can thereby facilitate conservation holistically. Scientifically, environmental and economics interactions are likely to inspire ground-breaking insights for monetizing the value of natural assets and stimulate the future discourse on resilient finance.

KEYWORDS: Climate Change, Climate Flexibility, Climate Wealth of Nations, Comparative Advantage, Diversification Advantage, Economics, Ethics, National Accounting, Natural Resources, Resilient Finance, Sustainable Finance Taxonomy, Trade

Introduction

The European and United States Green New Deals account for the most drastic economic changes in the post-pandemic world (Puaschunder 2020b; The United States Congress 2019). The Green New Deal and the European Green Deal, in combination with the European Sustainable Finance Taxonomy, are the most widescale efforts to marry the idea of economic growth in line with the natural resources pool and with respect for environmental limitations (Puaschunder 2021). Both programs target at creating an economic multiplier by a focus on the conservation and restoration of natural resources, which are meant to be integrated into the national and international accounting (Keynes 1936/2003).

In the European Union, the European Green Deal connects finance with sustainability. The European Sustainable Finance Taxonomy quantifies the carbon emission impact of various industries to make economic impacts on environmental conditions more transparent and accountable. Both initiatives are large-scale endeavors to quantify natural resources in relation to economic productivity outcomes with long-term impact. The overarching goal of the European and US Green Deals is to improve the current and future management of economic outputs, outcomes and impacts so that they work towards a more sustainable future world.

The Joseph Biden Kamala Harris administration has also launched efforts to put nature on the national agenda and national accounting balance sheet (Reamer 2023). The Biden-Harris White House multi-year strategy plans to connect environmental conditions with economic outcomes in collecting data and using innovative methods to better capture nature's role in the U.S. economy. The results are expected to influence public and private sector endeavors. The environment-economy connex is meant to inform policy for natural resource preservation but also to generate business opportunities on the international level (Reamer 2023; The White House 2023a, b). National accounting standards will thereby include resources like land, water, minerals, animals and plants (Reamer 2023; The White House 2023a, b). Linking nature with the economy in a more inclusive and comprehensive accounting will also inform international relations and science diplomacy.

Linking nature to the economy and productivity as well as the human standard of living is also the driver for the World Bank to advocate for a "Changing Wealth of Nations" (World Bank 2023). The World Bank has been measuring wealth since the 1990s and holds a consistent global database for 146 countries from 1995 to 2018 (Onder 2023). Comprehensive wealth is based on produced capital (machinery, structures, urban land), non-renewable natural capital (fossil fuels, minerals), renewable natural capital (cropland and pastureland, forest timber and eco-services, protected areas, fisheries, mangroves), human capital (male/female, employed/self-employed) and net foreign assets (assets-liabilities) (Onder 2023). In a revised version of the Wealth of Nations index, the World Bank team now targets integrating natural capital in global macroeconomic and financial models to feature systematically forward-looking wealth estimates.

Puaschunder (2020a) measured the Gross Domestic Product (GDP) prospect differences under climate change worldwide and found exacerbating climate inequalities. Puaschunder (2020b) introduced a climate change winners and losers index, representing relative economic climate change windfall gain reaper and victim countries, based on the economic prospects under climate change around the world and over time. The model assumes that there are relative economic climate change reapers that have a relative economic windfall gain from a warming globe while other relative economic climate change victims face immediate disadvantages due to global warming. The model primarily focuses on shedding light on the inequality in countries and regions of the world exacerbated by climate change determining economic prospects. The index attributed relative economic gain and loss prospects based on the medium temperature per country and the optimum temperature for economic productivity per GDP agriculture, industry, and service sector, and the GDP sector composition per country to determine how far countries are deviating from their optimum productivity levels on a time scale based on an overall changing climate prospect (Puaschunder 2020a). It is to be noted that the 'relative economic climate change windfall gain reapers and victims' are categories on a spectrum, that the gain and loss perspective addressed only concerns GDP growth and that the gains/losses distribution are windfall/victim categories that countries did not accomplish or chose willingfully. Gains and losses are somewhat random distributions throughout the world. It is sheer luck in the birth lottery, where one falls into.

Climate justice addresses inequalities inherent in global warming with a mandate to alleviate imbalances and enact fairness regarding climate benefits and burden-sharing. To alleviate inequalities in climate change impacts between countries, ethical imperatives of

Immanuel Kant's categorical imperative (1783/1993) and John Rawls' veil of ignorance (1971) but also economic calculus as put forward in Kaldor-Hicks' compensation criteria guide redistribution schemes (Law & Smullen 2008).

For the implementation of redistribution to alleviate climate inequality around the world, climate change-winning countries that also feature relative climate flexibility in terms of temperature ranges on their territory and that contribute to human-made global warming in CO_2 emissions could pay for the establishment and maintenance of climate bonds via carbon taxation; while climate change losing territories with low CO_2 emissions and a narrow range of temperatures on their soil and thus low climate flexibility could be recipients of climate bonds with relatively high interest rate premium and thus be relative beneficiaries in the common climate taxation-and-bonds transfer scheme.

This paper pays tribute to the connection between economic productivity and natural resources. First, the European Green Deal and the European model of a Sustainable Finance Taxonomy are presented as a classification of the impact of economic production on natural resources and environmental assets. Second, the contemporary efforts of the United States Biden-Harris administration to account for natural resources in national accounting are outlined. Third, the international strategy to measure the "Changing Wealth of Nations" around the world at the World Bank in Washington, D.C. is discussed for integrating natural resources in productivity measurements. Fourth, the climate change impact in terms of climate flexibility as an economic advantage and trade asset that varies around the globe is depicted. Fifth, the different strategies are discussed and an outlook for future research is given.

European Green Deal and the Sustainable Finance Taxonomy

The European Green Deal and the European Sustainable Finance Taxonomy but also the dichotomy of European Union efforts (foremost the Next Generation EU) are part of the concurrent European national COVID-19 rescue and recovery packages. The Sustainable Finance Taxonomy accounts for the carbon impact of industries on natural resources to make economic productivity's effect on environmental conditions more transparent and accountable. Organized by sector and technology, the European Sustainable Finance Taxonomy provides references to classify climate change mitigation and adaptation activities, including environmental objectives (European Union Technical Expert Group on Sustainable Finance 2020).

The goal of the European Green Deal is to improve the current and future management of outputs, outcomes and impact of economic behavior. In the European Green Deal large-scale endeavor with a long-term impact, the effectiveness will be evaluated by the sustainability assessment of the performance of projects, institutions and programs by governments, international organizations, non-governmental organizations (NGOs) as well as social media campaigns. As the continuous assessment of programs, controlled evaluations of large-scale projects' relevance, effectiveness, efficiency and impact will be needed on a grand scale and with a future-oriented outlook.

Biden-Harris White House strategy to integrate natural resources in national accounting

The Joseph Biden Kamala Harris administration has launched efforts to put nature on the nation's balance sheet (Reamer 2023). The Biden-Harris White House multi-year strategy plans to connect environmental conditions with economic outcomes in collecting data and using innovative methods to better capture nature's role in the U.S. economy. National accounting standards will thereby include resources like land, water, minerals, animals and plants (Reamer 2023; The White House 2023a, b). The results are expected to influence public and private sector endeavors. The environment-economy connex is meant to inform public policy makers for natural resource preservation but also business opportunities on the international level (Reamer 2023; The White

House 2023a, b). Linking nature with the economy in a more inclusive and comprehensive accounting will also guide international relations and science diplomacy.

The involved agencies are the "White House Office of Science and Technology Policy (OSTP), the Office of Management and Budget (OMB), and the U.S. Department of Commerce working with more than 27 federal departments and agencies on the development of the final National Strategy to Develop Statistics for Environmental-Economic Decisions" (Reamer 2023; The White House 2023a, b). The overall effort is believed to change the appreciation and perception of natural resources as key to economic prosperity, financial risk accounting in light of climate change, international trade opportunities and the overall societal quality of life (Reamer 2023; The White House 2023a, b). On the global level, integrating natural resources into economic productivity prospects has the potential to change power dynamics and international politics driven by economic opportunities.

International efforts to measure the Changing Wealth of Nations

Linking nature to the economy and productivity as well as the human standard of living is also the driver for the World Bank project named "Changing Wealth of Nations" (World Bank 2023). The World Bank has been measuring wealth since the 1990s and holds a consistent global database for 146 countries from 1995 to 2018 (Onder 2023). Comprehensive wealth is based on produced capital (machinery, structures, urban land), non-renewable natural capital (fossil fuels, minerals), renewable natural capital (cropland and pastureland, forest timber and eco-services, protected areas, fisheries, mangroves), human capital (male/female, employed/self-employed) and net foreign assets (assets-liabilities) in a yearly reporting (Onder 2023).

The yearly reports are now improved by adding carbon storage, renewable energy and aquaculture pilot systems (Onder 2023). Integrating natural capital in global macroeconomic and financial models is thereby meant to feature systematically forward-looking wealth estimates. Future research endeavors thereby include the impact of climate on diversification (Onder 2023). The report additions address the growing demand to understand the interlinkage of the economy and the environment as a source to inspire restoration and conservation policies (Onder 2023).

Climate Flexibility

Climate flexibility as the range of temperatures a country enjoys was recently introduced to be a future wealth of nations (Puaschunder 2020a). Climate flexibility – defined as the range of temperature variation per country – determines the future climate wealth of nations based on economic production and comparative trade advantages (Puaschunder 2020a). If a country has a natural climate flexibility in terms of a range of different temperatures that vary within its territory, then the country is assumed to have more economic degrees of freedom and future trade assets in a changing climate (Puaschunder 2020a).

Puaschunder (2020a) measured the Gross Domestic Product (GDP) prospect differences under climate change worldwide and found exacerbating climate inequalities. Puaschunder (2020b) introduced a climate change winners and losers index, representing relative economic climate change windfall gain reaper and victim countries, based on the economic prospects under climate change around the world and over time. The model assumes that there are relative economic climate change reapers that have a windfall gain from a warming globe while other relative economic climate change victims face immediate disadvantages due to global warming.

The wider the range of latitude and altitude within a nation-state, the more climate flexibility and favorable economic degrees of freedom for multiple production peaks are assumed. A broad spectrum of climate zones is portrayed as a future asset in light of climate change-induced shrinking climate flexibility. Global warming will continue diminishing

territories' economic production flexibility when climate variation sinks. The more climate variation a nation-state possesses right now, the more degrees of freedom a country has in terms of GDP production capabilities in a differing climate. These insights aid in answering what financial patterns we can expect given predictions the earth will become hotter. Already now human capital flows and financial market inflows are significant in areas that are economically gaining from a warming globe.

The climate winners and losers model primarily focuses on shedding light on the inequality in countries and regions of the world exacerbated by climate change determining economic prospects. The index attributed relative economic gain and loss prospects based on the medium temperature per country and the optimum temperature for economic productivity per GDP agriculture, industry, and service sector, and the GDP sector composition per country to determine how far countries are deviating from their optimum productivity levels on a time scale (Puaschunder 2020a). It is to be noted that the 'relative economic climate change windfall gain reapers and victims' are categories on a spectrum, that the gain and loss perspective addressed only concerns GDP growth and that the gains/losses distribution are windfall/victim categories that countries did not accomplish or chose willingfully. Gains and losses are somewhat random distributions throughout the world. It is sheer luck in the birth lottery where one falls into.

The economic analysis of the economic gains and losses of a warming earth around the world but also an economic estimation of future trade prospects in light of global warming, help quantify how to enact climate change burden-sharing fairness in legally-instigated redistribution and compensation schemes. Those countries that benefit from rising GDP productivity given climate change and those countries with relatively higher degrees of climate flexibility thereby should redistribute some of the expected wealth increase to places that have a declining GDP prospect under global warming and low climate flexibility.

An international climate change fund could be based on indices that integrated the relative country's initial position on the climate change gains and losses index spectrum and a country's climate flexibility understood as the future climate wealth of nations trading assets in combination with CO_2 emissions production and consumption levels as well as changes in CO_2 emissions over time and the bank lending interest rate per country but also historic resilient finance and trade positions (Puaschunder 2020a). An overall redistribution key was introduced to determine per-country transfers based on the climate change winner or loser status and climate flexibility as well as the contribution to the climate change problem measured per country and over time by CO_2 emissions of production and consumption as well as CO_2 emission changes and the bank lending rate per country. In order for the redistribution scheme to work, those countries with climate change losing prospects and low ranges of climate flexibility as well as low CO_2 emissions in production and consumption as well as decreasing CO_2 emissions and high bank lending rates could be granted climate bonds prospects with high bond yield rates that are financed by countries that have climate change winning prospect and high ranges of climate flexibility as well as high CO_2 emissions in production and consumption as well as increasing CO_2 emissions trends and low bank lending rates via taxation.

A better propensity to enact a common climate justice solution on the international level should predestine countries to face a higher responsibility to act on global warming and lead the world solution for climate justice. Those countries that have historically-proven financial crisis intervention expertise and resilience finance capabilities as well as are connected in science diplomacy and economic terms should thereby take on a leadership role in raising the funds for the common climate justice taxation and transfer bonds solution. These countries would raise the funds necessary to be redistributed to countries that do not have a good starting ground on financial crisis intervention and resilient finance expertise and are not well connected in regard to science diplomacy and economic transfers.

An in-between country regime could enact fairness on the different starting grounds of countries as relative climate change winners or losers coupled with incentivizing countries and/or corporations to compete over better bond conditions. Incentives could thereby target lowering CO2 emissions or moving production to places that are climate losers to help revitalize economies that have a shrinking prospect under climate change.

The idea of differing climate bond regimes is also extendable to sector-specific bond yield interest rate regimes. On a country level, high CO_2 emitting industries should face climate taxation to set market incentives for a transition to renewable energy. The revenues generated from the taxation of carbon-intensive industries should be used to offset the losses of climate change and subsidize climate bonds.

Within a country, the bonds could be offered by commissioning agents, such as local investment banks, who could install industry-specific premium bond payments and maturity bond yields based on the environmental sustainability of an industry, e.g., as measured by the European Sustainable Finance Taxonomy or U.S. attempts to include nature into national accounting. The more sustainable an industry performs; the higher bond yield should be granted in sector-specific interest rate regimes within a country. This strategy should set positive market incentives via subsidies. Funding industries for not polluting could change the traditional race-to-the-bottom price-cutting behavior driving CO_2 emitting energy supply to have industries compete over subsidies for using clean energy. In this way, bond yield differences between industries could set positive market incentives for transitioning to renewable energy productivity solutions.

Discussion

The presented concerted efforts to integrate natural resources in economic productivity calculus are believed to stimulate environmental policy and protection, change sustainable development and macroeconomic calculus. Policy and regulatory settings are meant to be aligned with wealth derived from natural resources. Natural resource accounting is also likely to change the estimation of competitiveness around the world. The integration of local community assets can facilitate conservation holistically. Scientifically, environmental and economics interactions are likely to inspire ground-breaking insights for monetizing the value of natural assets and stimulate the future discourse on resilient finance.

Future efforts to integrate natural capital into national accounting should be fortified. Foremost the European Sustainable Finance Taxonomy but also the United States research on how to integrate natural resources into national accounting standards can guide the preservation and conservation of natural wealth. Climate justice redistribution strategies could become pegged to sustainable finance and the natural resource-based wealth of nations.

The European classification of industries' contribution to climate change in the European Sustainable Finance Taxonomy could become the basis for setting positive market incentives to change market dynamics via differing bond regimes. Within a country, the bonds could be offered by commissioning agents, such as local investment banks, who could install industry-specific premium bond payments and maturity bond yields based on the environmental sustainability of an industry, e.g., as measured by the European Sustainable Finance Taxonomy or U.S. attempts to include nature into national accounting. The more sustainable an industry performs; the higher bond yield should be granted in sector-specific interest rate regimes within a country. This strategy should set positive market incentives via subsidies. Funding industries for not polluting could change the traditional race-to-the-bottom price-cutting behavior driving CO_2 emitting energy supply to have industries compete over subsidies for using clean energy. In this way, bond yield differences between industries could set positive market incentives for transitioning to renewable energy productivity solutions.

Future measurements should refine the concept of climate flexibility defined as the range of temperature variation of a country (Puaschunder 2020a). In a changing climate, temperature range flexibility is portrayed as a future asset for international trade of commodities but also for production flexibility leading to comparative advantages of countries. A broad spectrum of climate zones has never been defined as an asset and comparative edge in free trade but climate change will require territories to be more flexible in terms of changing economic production. The more climate variation a nation-state possesses, the more degrees of freedom a country has in terms of GDP production capabilities in a differing climate. These preliminary insights aid in answering what financial patterns can we expect given predictions the earth will become hotter. Already now, the degree of climate flexibility is found to be related to human migration inflow and is predicted to determine the future climate wealth of nations in a climate-changing world (Puaschunder 2020a). The actual natural external impact but also human-built influences on the natural wealth of nations should lead to the unprecedented outlook on the future climate wealth of nations in the age of the Anthropocene. How future climate change-induced market changes are pegged to scarcity of climate flexibility and a prospect of commodity price spikes in the interrelation between environmental, political and demand patterns should become unraveled.

Global governance institutions play a crucial role in measuring the impact of economic productivity on natural resources. Governance experts are also at the forefront of implementing the proposed relative economic climate change gains redistribution scheme with plurilateral summit capabilities. Comprised of all nations of the world, global governance entities can instigate the idea of a 'Global Green New Deal,' which could globalize ideas of the Green New Deal and the European Green Deal to enact a binding taxation-and-bonds solution for alleviating the disparate impact of climate change. Empirically-driven redistribution schemes could thereby build the support of all the international actors involved and imbue a notion of economically-driven rationality in fairness that could win countries to act and comply. Global governance institutions, such as the World Bank, IMF, or the United Nations, could act as norm entrepreneurs and action catalysts of a Global Green New Deal that redistributes the unequally-distributed relative economic gains of a warming earth to places that face economically-declining economic prospects. The important role that global governance institutions can play in supporting and implementing a Global Green New Deal targets at redistribution to overcome global inequalities in regard to climate change. Global governance institutions can shape the conduct and array of international actors to contribute to a commonly-agreed global scheme. Economically-driven indices in a concerted governance and science diplomacy accord could aid in taking the political nature out of redistribution politics and historically-laden international relations. Drawing attention to the need for future research on this nexus will serve as a first step in finding economically-driven redistribution schemes to conserve and protect the earth inbetween generations.

All the presented programs are large-scale endeavors with a long-term impact to make the world a more sustainable place and economies more resilient. The success of these long-term large-scale endeavors will depend on future conditions and long-term implementation compliance. Monitoring and Evaluation (M&E) can currently only give a short-term assessment of the performance of projects, institutions and programs by governments, international organizations, non-governmental organizations (NGOs) as well as social media campaigns. In the continuous assessment of programs younger generations and the most diverse stakeholders should be included as all these projects require a long-term and large-scale transformation. In the end, to the young and the diverse groups within society and around the world but also over time, the relevance, effectiveness, efficiency and impact of all these endeavors will matter the most if implemented sustainably and meaningfully for the global community of this generation and the following.

References

European Union Technical Expert Group on Sustainable Finance. 2020. Financing a sustainable European economy: Technical report: Taxonomy: Final report of the Technical Expert Group on Sustainable Finance March 2020. Retrieved at https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy_en.pdf.

Kant, Immanuel. 1783/1993. *Grounding for the metaphysics of morals.* Cambridge: Hackett.

Keynes, John Maynard. 1936/2003. *The general theory of employment, interest and money.* Cambridge, MA: Harvard University Press.

Law, Jonathan. & John Smullen. 2008. *A dictionary of finance and banking*. Oxford: Oxford University Press.

Office of the U.N. High Commissioner for Human Rights. 2015. Understanding Human Rights and Climate Change. Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCC, COP21), 27 November 2015.

Onder, Stefanie. 2023. The changing wealth of nations (CWON). The World Bank Group. Presentation delivered to the U.S. Committee for IIASA at the National Academy of Sciences, Washington D.C., May 9, 2023.

Puaschunder, Julia Margarete. 2020a. *Governance and Climate Justice: Global South and Developing Nations.* New York: Palgrave Macmillan. Cham, Switzerland: Springer Nature.

Puaschunder, Julia Margarete 2020b. The Green New Deal: Historical foundations, economic fundamentals and implementation strategies, The FinReg Blog: Global Financial Markets Center Duke University School of Law Blog, October 30, 2020. Retrieved at, https://sites.law.duke.edu/thefinregblog/author/julia-m-puaschunder/.

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.

Rawls, John. 1971. *A theory of justice.* Cambridge, MA: Harvard University Press.

Reamer, Andrew. 2023. National Strategy to Develop Statistics for Environmental-Economic Decision: OSTP/Commerce/OMB, January 19, 2023. Retrieved at https://www.aeaweb.org/forum/3447/national-strategy-statistics-environmental-economic-decisions

The United States Congress. 2019." Recognizing the duty of the Federal Government to create a Green New Deal." Retrieved at https://www.congress.gov/bill/116th-congress/house-resolution/109/text

The White House. 2023a. Fact Sheet: Biden-Harris Administration releases national strategy to put nature on the nation's balance sheet, January 19, 2023. Retrieved at https://www.whitehouse.gov/ostp/news-updates/2023/01/19/fact-sheet-biden-harris-administration-releases-national-strategy-to-put-nature-on-the-nations-balance-sheet/

The White House. 2023b. A national strategy to develop statistics for environmental-economic decisions: A U.S. system of natural capital accounting and associated environmental-economic statistics. Office of Science and Technology Policy. Office of Management and Budget. Department of Commerce. Retrieved at https://www.whitehouse.gov/wp-content/uploads/2023/01/Natural-Capital-Accounting-Strategy-final.pdf

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310079

Legal Particularities in the Medieval Era

Marilena Marin

Associate Professor, PhD,"Ovidius" University of Constanța, Romania
marilenamarin@yahoo.com

ABSTRACT: The medieval era was a fascinating time for almost all fields, including the juridical field. The historical and social context of this era marked the legal system by a series of particularities, both in terms of substantive and procedural law, but at the same time, they also left their mark on subsequent eras, to a greater or lesser extent. The analysis proposed in our study concerns, among other things, the way in which the medieval world understood how to regulate social values, establish rules of conduct and organize judicial procedure in relation to social classes and categories, but also the challenges brought about by this historical period.

KEYWORDS: medieval era, feudal era, legal system, substantive law, legal institution, procedural law

1. Introduction

The medieval era and the feudal era are two distinct concepts, even though the feudal era roughly coincided with the medieval period. The feudal era refers to the specific feudal system that dictated social and economic relationships and that revolves around the concept of 'feud'. This system involved relationships of suzerainty and vassalage, through which noble titles and properties were legally passed down through inheritance. The medieval era refers to the period characterized by the Christian religion, medieval thought, and authoritarian forms of governance.

During the medieval period, which spanned approximately from the 5th to the 16th century, daily life exhibited certain peculiarities in the legal domain. These peculiarities had a significant impact on society and subsequent legal evolution. In a world characterized by well-defined social hierarchies and the strong influence of religion and monarchy, the medieval legal system reflected these realities in a variety of ways.

Within the scope of our work, we will present certain particularities of the legal system in the medieval era, relying on qualitative research and observation as methods of scientific inquiry.

2. Landmarks on the sources of law in the Middle Ages

2.1. Sources of medieval law

The civilization of the European Middle Ages encompassed, alongside Latin influence, a series of elements of Byzantine, Germanic, Celtic origin, with Islamic and Christian influences. General principles were not found within customary regulation. The excessive fragmentation of judicial authority, as well as the coexistence of different traditions, led to uncertainty, insecurity, and contradiction. An important role was played by the Enlightenment movement, alongside the emergence of legal codes, as well as the scientific analysis of law (customs, canons/nomocanons, and Roman law).

Medieval law was closely intertwined with religion, moral norms, and traditional customs. Canon law, derived from the laws of the Catholic Church, and secular law, governed by secular authorities, often intersected and could lead to situations of legal conflict. Furthermore, within the context of feudalism, customary law and written law coexisted, and justice was frequently administered at the local level by rulers or landowners.

The substantive law considered legal relationships that could be established within society and were subject, in turn, to rules imposed by law and/or the will of the parties, as the case may be. Procedural law was influenced by the diversity of legislations and judicial practices in different regions and states. In a time when communication and movement were

limited, each community or region developed its own legal norms and procedures, adapted to local needs and particularities.

As sources of medieval law, the documents of the time mention: legal customs/habits, which were passed down from generation to generation and became a source of law for the Germanic peoples; customary law, which was often uncertain, lacking the rigor specific to a legal norm (in the later sense of the term, not the initial one) and referred to detailed factual situations, sometimes appearing as a special rule; general written law and, later on, specialized written law (Dariescu 2008, 28-32). In addition to these aspects, the medieval era also witnessed the first signs of evolution towards a codified legal system, aiming for standardization. Gradually, codes of written laws were developed, attempting to regulate various aspects of social life more clearly and reduce arbitrariness in the administration of justice.

As for medieval Romanian law, the documents of the time mention the following sources of it: custom or customary law, legislation, the document entitled ”Syntagma of Matei Vlastarie” (Vasiu 2009, 135-136), several Romanian normative acts, such as: the ”Pravila de ispravă”; ”Pravila of Lucaci from Putna”; ”Pravila aleasă”; some royal decrees and privileges; statutes (which were documents elaborated solely for local applicability or for a specific community); codes and collections of written norms; imperial diplomas/patents (specific to the Transylvania region); normative acts printed in the Romanian language, such as: the ”Nomocanon of Ioan Postnicul”; the ”Pravila mică” (or ”Pravila of Matei Basarab”); ”The Seven Sacraments of the Church” (discovered in Iași); the Romanian Book of Learning from imperial ”pravile” and from other counties (the first official secular legislation); the ”Pravila cea mare”/”Rectification of the Law” (Târgoviște, Matei Basarab, translation from Greek) (Carp, Stanomir and Vlad 2002, 31-35, 43).

2.2. Particularities of the medieval legal system

The historical and legal sources that have reached us from the medieval age reveal the existence of three major legal systems applicable during that era: royal justice, ecclesiastical justice, and feudal justice.

Royal justice emerged during the 13th century in France and absorbed feudal justice in terms of land ownership. This type of justice was also exercised through ordinances. Additionally, in England, the Royal Council was empowered with the functions of the Supreme Court of Justice, and in Germany, royal justice was regulated in true collections of laws, such as the ”Saxon Mirror” and the ”Swabian Mirror”; ”The Constitutio Carolina Criminalis”. In Italy, the old medieval forms of justice have been preserved.

Ecclesiastical justice was established by the Church and judged matters other than religious ones, such as adultery, incest, certain types of murder, usury, widows, marriage, will execution, etc. The most important collection of laws for this type of justice was the *Corpus Juris Canonici* (Rotaru 2014, 85).

The third system of medieval justice, feudal justice, was a result of feudal relationships, primarily dealing with cases related to property/land ownership and the nature of obligations. The legal reports of vassalage are the subject of investigation in another study, and the analysis of this report also considers aspects related to citizenship status, affiliation with a specific state, or the possibility to seek the protection of a state in special cases (Brașoveanu 2016, 48-50).

In the Romanian lands, a specific legal source emerged, known as the ”Law of the Land” (Legea Țării). The Law of the Land falls under the category of unwritten Romanian law (customary law), which developed over an extensive historical process and had its main source in the social norms existing within the Romanian territory. The oldest known customs and legal norms were formed in relation to land ownership (Vasiu 2009, 73-74). Alongside regulations concerning property, the Law of the Land governed the status and quality of

individuals (natural persons and legal entity), as well as the distinction between locals and foreigners, free or dependent peasants, degrees of kinship, family, inheritances, obligations, especially with regards to civil liability within the vicinal oblast (Dariescu 2008, 28).

3. Medieval civil law

The institutions of civil law known in the medieval era were connected to property, individuals, and family, matters of succession, as well as civil obligations and contracts. We will provide a brief presentation to observe the type of legal relationship applicable to these legal institutions and the context in which regulations from the previous era were maintained, adapted, or ignored, following the evolution of medieval society. Additionally, our research will focus more on the institutions of Romanian law from the medieval period.

Thus, Romanian customary law encompasses institutions of Roman public law and a series of Roman private law institutions, among which the most important is the right of property over land. In this era, in the Romanian lands, customary law based on legal custom (”cutumă”) was applied, which had an agrarian-land nature and was referred to as ”jus valachicum”, ”atica lex”, ”lex antiqua/olahorum” (Romanian law, old law, old Romanian law, law of the Romanians) (Hanga 1993, 41).

3.1. The Institution of Property

In Romanian lands, within the village communities (”obști”), ownership of immovable property was more related to agrarian property (later also introducing the notion of ”landed property”) and had a dual character. This included individual ownership, which pertained to cultivated lands, and communal ownership, which applied to other lands. Each member of the community was a free person, owning property, including landed property (rom.”proprietate funciară”), which they either inherited or passed down.

The right of property during the feudal period encompassed feudal ownership (complete ownership over means of production in general, and over land in particular, with the original owner benefiting from the so-called ”dominium eminens”) and the ownership of the direct producer. The direct producer could be either a free peasant who owned land or a dependent peasant who possessed means of production and consumption, having only the use of the land (which they could sublease or subinfeudate). This direct producer benefited from the so-called ”dominium utile” (Herlea 1997, 26).

The nobility could collect tithes and impose corvées/burdens, a foreign production process they did not administer. The peasants were dependent on the landlords’ land and paid various forms of compensation to them.

In the medieval period, property was classified according to two criteria: by the title of property acquisition and by the holder of the property right. Thus, based on the title of acquisition, feudal property could be: inherited property; donated property; property obtained through various legal acts between individuals; property obtained through succession; property obtained as a result of clearing, cultivating, and improving uncultivated lands.

Based on the holder of the property right, feudal property could be: princely property, property of the feudal lords of the time, namely boyars or clerics, property of free peasants, property of dependent peasants.

3.2. Individuals and Family

In Romanian law, during the medieval period, the concept of a ”subject of law” was assimilated, referring to a person who could assume obligations. This encompassed every human being from the moment of their birth and sometimes even from the moment of conception to birth. Limitations to legal capacity and/or usage were recognized based on factors such as age, mental state, marriage, criminal convictions, and more. The capacity for legal usage was recognized for all free individuals, but with variations based on social class.

An interesting issue to analyze pertains to the notions of ”social class” and ”social category”, which can be compared in relation to a person's economic status or material situation, as well as their actual activities within the society they inhabit. Based on these differentiations, the applicable legal category for specific groups of individuals could be determined, along with the extent to which these individuals could influence the legislative organization of their society.

Many works discussing the medieval period mention several social categories (namely, clergy, knights, serfs), each associated with certain roles/occupations, such as ”those who pray”, ”those who fight”, and ”those who work”. The medieval world also included other social categories, including artisans in cities (such as merchants, traders, etc.), ”peasants bound to the land” in rural areas (previously referred to as ”serfs”), and ”free peasants”.

Concerning kinship relationships during the medieval period in Romanian lands, these were based on biological connections between individuals (birth, lineage, adoption). Kinship was established patrilineally, and in cases where the father couldn't be identified, it was established matrilineally. Civil and spiritual kinship were both recognized. Marriage could be dissolved through death or divorce, and remarriage was only possible in the absence of minor children. In comparison with the contemporary era, modern Romanian legislation distinguishes between death and divorce as methods of ending legal family relationships between spouses. Thus, the current Romanian Civil Code (2009) and the old Family Code (1954) regulated ”termination/cessation of marriage” through the death of one spouse and ”dissolution of marriage” through divorce. Each of these legal situations has distinct conditions and legal effects (Dură, Kroczek and Mititelu 2017, 78-83).

Regarding the traditional medieval Romanian family, it was monogamous, known as the ”stump (butuc) family”, centered around a nucleus, with children moving to their own dwelling after marriage, except for the youngest child. Marriage was preceded by engagement, which had legal effects on the future spouses and the assets received by them on this occasion. Dowry was recognized for both future spouses, and their families competed in ”endowing” their own child.

Parental authority was exercised over legitimate children, although this legal institution no longer had the absolute character it had in antiquity.

3.3. Other civil law institutions

The Institution of Succession/Inheritance: Medieval Romanian law recognized both legal succession through a set of inheritors and testamentary succession (when inheritance was transferred based on a will, a unilateral civil legal act). The succession regime for monks had distinct regulations, specific to the clerical field.

The settlement of an inheritance considered both sides of the estate, such that liquidating the active part of the estate was straightforward, but liquidating the liabilities of the estate could not be done until the deceased's debts were settled. In this context, the status of an heir could be acquired before fulfilling the inheritance duties.

Domain of Civil Obligations: Romanian peasants during the medieval period, who worked the land of their masters, were obligated according to the old Romanian law to provide days of labor/rent in labor, natural produce, transportation services, and other privileges. These were specific obligations characteristic of the early stages of feudal development.

In terms of contracts, expressed consent had to be free from defects; otherwise, the contract would be invalid. Types of contracts included sale, exchange, lease, and loans (both for consumption and use). Personal guarantees (surety) and real guarantees (pledge) could be offered. The medieval period recognized ”force majeure” as a circumstance that could exempt the party invoking it from liability in contractual relationships where the assumed obligations could not be fulfilled.

4. Medieval criminal law

4.1. Terminological Delimitations

In the Middle Ages, criminal law was governed by a distinct set of rules and practices, often foreign to the modern legal framework. The specific terminology used in the field of criminal law reflected these significant differences from the current legal system, characterized by rigidity and a profound understanding of religious, social, and feudal concepts. The mindset and social structures of the time were encompassed in the legal terminology used during this period (Peretz 1931, 47). An expression used in the medieval period was ”judicial battle” or ”judicial duel”. This was a procedure through which the accused and accusers could resolve their disputes through direct combat or other forms of physical competition. The belief was that divinity would intervene in favor of the person with a just cause. This type of judgment was often brutal and frequently led to serious injuries or even the death of one of the participants.

Another expression used in the medieval period, within legal terminology, was the ”judgment of God” or the ”judgment by ordeal”. This was a practice where individuals accused of serious crimes such as treason or witchcraft underwent a trial by which, depending on its outcome, the guilt or innocence of the accused was determined. This reflected a strong belief in divine intervention and the influence of the church in criminal proceedings.

One of the forms of evidence encountered in the Middle Ages was known as ”ordeal” or ”trial by fire and water”. This was a test in which the supposed guilt or innocence of a person was established by subjecting them to extreme situations, such as walking the accused over hot coals or submerging them in water. If the person survived or emerged without serious injuries, they were considered innocent, while contrary results were interpreted as evidence of guilt. The ”ordeal” underscored the close relationship between justice and religious belief.

The concept of ”ostracism” was often used in the context of criminal punishment. This involved excluding an individual from their community, considered a method of moral and social punishment that prevented them from benefiting from the support and resources of the community. Those who committed an act deemed to be criminal, but were declared irresponsible or benefited from this presumption, had a different legal status from what the legislator of today understands to regulate (Topor 2021, 563).

From what has been observed, it can be said that the specific terminology of criminal law in the Middle Ages reflected the mindset and values of that era. The concepts of divine justice, equality in the face of death, and the strong role of the church influenced how crimes were treated and punishments were imposed. These terms not only described the legal system of the time but also reflected the social and religious foundations that supported it.

4.2. Offenses and Punishments

In medieval criminal law, the offense was that dangerous act which was sanctioned by the public authority through a punishment. Between the offense and the punishment, the connection was indissoluble, with medieval criminal law being socially oriented.

In general, punishments in medieval law were characterized by several features, namely: they aimed to intimidate the convicted individual; they were not limited by law, as the ruler could impose sanctions ”beyond the rule” (being able to ”add to the law”, this practice is not allowed by law nowadays); the accumulation of punishments was allowed; punishments were unequal for the same offense, varying according to the social position of the guilty party; most punishments were left ”at the judge's discretion”; they brought income to the ruler and officials who judged; blood revenge did not exist as a legal punishment, but traces of ”vendetta” were encountered in some cases, allowing for redemption (voluntary composition) (Mitra-Niță 2020, 237-239).

The evolution of criminal regulations in Romanian law during the medieval period can be highlighted in three main aspects:

a. identifying certain categories of acts that by their essence were directed against fundamental human values and posed an increased social danger through their consequences, which acts were considered offenses;

b. the issue of holding individuals criminally liable for committing such acts and the procedure applicable to this judicial activity;

c. the punishments applied for the commission of such acts.

In the realm of criminal law, the medieval era was known for using often harsh and brutal methods, such as torture or corporal punishments. Torture was often used to extract confessions or to determine or induce an individual's guilt. Sanctions were also influenced by the social status of the accused person and the severity of the committed offense. Over the last century, we can observe that some of the investigation methods, as well as some of the sanctions applied during the medieval period, have been used in the investigations of the communist era (Mitra-Niță, Drăghici, 2019, 132).

Public executions, such as hanging, beheading, or burning at the stake, were employed to deter crimes and demonstrate the power of legal authority.

In medieval Romanian countries (Dafinoiu 2014, 98-103), within the context of village communities/vicinal oblasts, the principle of equality among community members was recognized and respected. Conflicts arising among these members were resolved by the ”Council of Good and Elderly People”, based on principles of kinship solidarity, the law of retaliation, Christian doctrine, punishment composition/individualization, and so forth, as appropriate.

In judicial proceedings, oaths and testimonial evidence (evidence through witnesses) were used as proofs. The evidence was presented by the parties themselves. Alongside these proofs, so-called ”ordeals” (that we talked about earlier) were also practiced, which were religious ceremonies of primitive origin. In the Middle Ages, it was believed that invoking divine forces through a procedure would reveal who was right in the respective dispute.

On the territory of the former Roman province of Dacia, the ”ordeal of the land” was practiced in boundary-setting (or delimitation) processes. The maximum punishment that could be applied to someone found guilty was expulsion.

5. Conclusions

The medieval legal system is a fascinating window into our past, revealing a complex landscape characterized by distinct features that profoundly influenced the development of society. Within this system, medieval civil law constituted a vital component, with its institutions reflecting the values and social structure of the era. Civil law institutions, such as property, individuals, family, obligations, contracts, and successions, shaped interpersonal relationships and laid the foundations for community development.

Medieval criminal law also highlighted significant traits of that period. The concepts used during that time, specific terminology, and the methods of criminalization and punishment for acts considered offenses unveil the values of medieval society and its priorities regarding public order and justice. Legal proceedings provided an overview of how legal activities were conducted. These procedures were often straightforward, yet employed a variety of evidence, ranging from testimonies to ordeals and other means of proof. The applied punishments were at times extremely severe, reflecting both the desire to maintain social order and the symbols of authority held by medieval powers.

Based on the foregoing, we can conclude that exploring the peculiarities of the medieval legal system reveals a complex picture of life and society in that era. Medieval civil and criminal law, along with their institutions and procedures, reflect not only the will of justice but also the values, hierarchies, and everyday concerns of people from the past. This understanding helps us appreciate the evolution of justice systems and contextualize changes within legal norms and values in modern society.

References

Brașoveanu, Florica. 2016. ”Considerations on the Right to Asylum.” *Ovidius University Annals, Economic Sciences Series,* 16(1). Constanta: Ovidius University of Constanta Publishing.

Carp, Radu, Ioan Stanomir, and Laurențiu Vlad. 2002. ”From ’pravil’ to Constitution.” Bucharest: Nemira Publishing House.

Dafinoiu, Cristina. 2014.”The History of Romanian as a Foreign Language: Textbooks and the Contribution of the Academics at Ovidius University in This Field.” *Ovidius University Annals, Philology Series* 25 (2): 98-103.

Dariescu, Cosmin. 2008. History of the Romanian State and Law from Antiquity to the Great Union. Bucharest: C.H. Beck Publishing House.

Dură, Nicolae V., Piotr Kroczek, and Cătălina Mititelu. 2017. *Marriage from the Roman Catholic and Orthodox points of view.* Krakow: Scriptum Publishing House.

Hanga, Vladimir.1993. *History of Romanian law. Customary law.* Iași: Chemarea Publishing House.

Herlea, Alexandru. 1997. *Legal History Studies.* Cluj-Napoca: Dacia Publishing House.

Mitra-Niță, Mariana. 2020. ”From the History and Evolution of the Death Penalty”, Volume of the Introductory Course in the History and Philosophy of Science and Technology, Romanian Committee for the History and Philosophy of Science, CRIFST Constanta Branch, 13th Edition. Constanta: Ex Ponto Publishing House.

Mitra-Niță, Mariana and Vasile Drăghici. 2019. ”The evolution of the criminal sanctioning system in the last 100 years in Romania I.” In *A century since the establishment of Greater Romania, 140 years since the return of Dobrogea to Romania*. Bucharest: Universul Juridic Publishing.

Peretz, Ion. 1931. *History of Romanian Law Course. The Lordship Books.* Bucharest: Caragiale Printing House.

Romanian Civil Code 2009.

Rotaru, Ioan-Gheorghe. 2014. *Drept bisericesc (Church Law).* Cluj-Napoca: Risoprint Publishing House.

Topor, Roxana Elena. 2021. ”Judicial prohibition between social perception and protection of the law.” *Romanian Journal of Jurisprudence,* no. 3/2021. Bucharest: Universul Juridic Publishing House.

Vasiu, Ioana. 2009. *History of old Romanian law.* Cluj-Napoca: Albastră Publishing House.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310083

"For What It's Worth": How a Protest Anthem from the 1960s Impacted Activists over the Past Half-Century

Sania Sawale[1], Daniel B. Kurz[2]

[1]Bridgewater-Raritan High School, Bridgewater, NJ, United States, sawalesania@gmail.com
[2]M.A., Scranton, PA, United States, dbkurz415@aol.com

ABSTRACT: In the Summer of 1966, older Los Angeles residents grew angry over the crowds of teens and young adults in the downtown area. Despite the fact that few services were offered to these young people who faced the possibility of being drafted in the Vietnam War, the older population decided that the first response to the overcrowding issue should be police intervention. In what is now regarded as a complete overreaction, the Los Angeles Police Department (LAPD) violently challenged, attacked, arrested, and dispersed thousands of young people who otherwise were not acting in a harmful manner. Where these young people would wind up, where they would go to deal with their issues, and their need for socialization was irrelevant. They were treated as if they had invaded the community and that their lives mattered little. In reaction to these violent clashes, singer/songwriter Stephen Stills penned what would be one of the most influential protest anthems of the Modern Era: "For What It's Worth". The purpose of this study is to show how this 1966 song was not only an instant hit, but also impacted activists over the past half-century, as it was covered by famous artists in diverse social reform movements, in protests, and even in a political party convention. This study will explore how this one protest song represents the overall impact of music on activist culture, and strives to inspire and inform readers about the power of music in activism.

KEYWORDS: Los Angeles Police Department (LAPD), young people, disenfranchisement, draft, "For What It's Worth", cover, public demonstration

The Riot and the Song

In the mid-1960s, Los Angeles, much like the rest of the nation, was going through dramatic social changes. One of the largest generations in American history, now known as the 'Baby Boomers,' were reaching their teens and young adulthood. In communities all over the nation, downtowns and other common public areas were frequently overwhelmed by the numbers of young people. They seemed to be everywhere, especially on weekends and holidays, like Times Square on New Year's Eve (Russell 2015, 1-3)

This generation was different from the others, and not only because of its size. Its members were at the forefront of a cultural and music revolution, constantly challenging their elders with new ideas, styles and fashions. By the mid-1960s millions of young adults were joining various elements of a 'counter culture' that embraced experimentation with intoxicants (old and new), different versions of rock and roll (sometimes mixed with folk) and pacificism. Young men grew their hair long while young women took to revealing miniskirts while embracing feminism. In many parts of the U.S. older Americans did little to connect with or understand these new ideas and young people. Instead, they labelled them, mocked them and ultimately feared them (Gitlin 2013, 3-4). But this new generation was also under an unprecedented stress: The Vietnam Draft. While earlier generations of Americans did deal with periods of conscription, by the mid-60s the war in Southeast Asia was becoming increasingly unpopular, especially on the nation's dynamic university and college campuses. While Older Americans saw the war as a just struggle against

Global Communism, millions of young people viewed it as another stage in American overseas imperialism and a violation of national self-determination as once defined by Woodrow Wilson himself (BBC Bitesize).

All of these ideas and forces came to a head in the Fall of 1966, on the Sunset Strip in Los Angeles. During that year more and more teens and young adults were descending on that neighborhood in vast numbers, sometimes numbering in the thousands, on weekend and holiday evenings. There they would socialize, mingle, network, listen to live music (much of it experimental) and talk all things politics. This large generation was growing increasingly angry at its powerlessness, as the voting age was still 21 (Jackson 2022, 1).

It was in this atmosphere of the political powerlessness of young adults that business owners and older residents of Los Angeles began their anti-youth legislative campaign. Over the course of the past few years the city had adopted several ordinances and zoning rules to make life difficult for young adults and teens, from curfews to the limitation and even revocation of business licenses (Jackson 2022, 1-2).

This was not the age of the Internet. For young people, there were no online forums or chat rooms or downloadable music. If a person wanted any kind of social life, he or she had to literally relocate to a place where young people gathered. And that place was, in L.A., the Sunset Strip (Bart 1966).

In fairness, older residents had some reason to be concerned. While the vast majority of young adults and teens were peaceful (though loud), a sizable minority openly took drugs and overdosed in public. Others literally went semi-nude and drank openly in clear violation of the liquor age of 21 (Bart 1966).

It was in this kind of atmosphere that city authorities decided to literally declare war on its young population, at least in this area. Police de-escalation tactics were decades away; rather, on weekend evenings law enforcement simply announced young people to disperse and then charged into crowds. While young people remained defiant, they were met with a hail of clubs, handcuffs and violent arrests. During one of the riots, some observers mistook the scene for urban warfare. Some young adults did react violently, with some hitting arresting officers and engaging in acts of attempted arson (Bart 1966).

One of the witnesses to these events was singer/songwriter Stephen Stills. Stills found the entire scene shocking, and as a result he penned perhaps one of the greatest, most enduring protest anthems in American History: “For What It’s Worth” (Kudler 2013, 1-2).

Stills Writes a Hit – Or Two

Musically, Stills composed a song that mixed the rising popular folk music with rock and roll. The tune’s foundation was a constantly strumming bass guitar, dramatically echoed in order to impress upon the listener that this was more than a tune, it was an anthem. It was meant to be the musical backdrop to a moment of chaos that also pointed to a rising generation that was tired of old mores and ready to express themselves without fear, and regardless of the consequences (Kudler).

His lyrics belied the confusion of the riots, but at the same time presented the demands of youth in near-perfect clarity. At first, Stills expresses confusion, which was a totally appropriate emotion as many who witnessed the riot could not precisely identify what was actually occurring. Thousands of young people were screaming, falling, fighting with hundreds of heavily armed police officers while smoke billowed all around.

> “There’s something happening here,
> What it is ain’t exactly clear…
> There’s a man with a gun over there,
> Telling me, I got to beware…”

Stills expressed the visible intimidation armed officers presented to young people. The contempt of the older community and local businesses was clear as cops and others practically mocked the protesters (Kudler 2013).

The immediate results of the riots were the end of many of the establishments (such as coffeehouses, clubs and bars) that catered to young adults and teens. Part of the city's grid system was reworked within the next few years to radically change the Sunset Blvd. neighborhood. But the vibrancy of the area eventually returned, and the demands of young adults for peace, for the vote, for a measure of social justice would go on. And so would the song, which would continue to inspire many in their quest to effectuate meaningful systemic change (Meares 2019).

Stills would go on to perform it live in the neighborhood in January of the next year, and his group Buffalo Springfield took to the recording studio. Soon, radios all over America were booming the new anthem "For What It's Worth." Stills had written a hit, and he would go on to write many more (Kudler 2013).

It was during this period that the war in Vietnam was intensifying, as the United States claimed, primarily using the now-dubious "Domino Theory" that the war in Southeast Asia would soon lead to Americans fighting communism in many more nations. Stills did not write the song with the war in mind, but as the 60's rolled on, both his and popular opposition to the war would intensify. "For What It's Worth" was frequently used as inspiration for anti-war activists, and could frequently be heard blasting from radios for the remainder of the conflict from college campuses, to beaches to urban centers (Kudler 2013).

Stills regarded American involvement as altogether infamous. Early on he even went as far as stating that the infamous "Gulf of Tonkin" incident, in which it was alleged North Vietnamese forces attacked the U.S. Navy as a malicious deception. In one interview at the time he clearly stated, "We were lied to about the Gulf of Tonkin. We went to war on a lie. And all those guys died for nothing. It was a goddamn shame" (Rolling Stone Interview 1972). As the war continued into the 1970s, Stills and others grew alarmed at the growing toll of war injured and dead. By this time, under Presidents Johnson and Nixon the physical boundaries of the war dramatically expanded beyond the defensive perimeters of what was South Vietnam.

Combat and aerial bombardments reached deep into Cambodia and North Vietnam. Hanoi, the Capital of North Vietnam, even found itself under American attack with major bridges cut. Stills lamented all of the loss and considered the American Dead to be a tragic mistake. But even though he maintained his opposition to the war, that anger was never oriented to the American fighting man. In fact, Stills praised veterans of every American conflict for their bravery, selflessness and sacrifices. On several occasions, both during the war and later, he stated that American troops had behaved heroically. In 2013, he told a journalist at Rolling Stone, "The people who went to Vietnam, they're the real heroes, because they were sent into an unwinnable situation, and they did their job. They fought for each other, and they fought for their country" (Rolling Stone 2013).

Of course, Still's song writing prowess would continue with many other hits. But one in particular has now been regarded by scholars as almost a 'sequel' to "For What It's Worth," as if the classic song was so powerful it had successfully birthed another.

In the early 70's Stills, along with David Nash, would pen his biggest hit, "Teach," while in the group Crosby, Stills, Nash and Young. "Teach" took the confusion, alarm and tension from "What It's Worth" and turned it around. The optimistic, but simultaneously sad ballad returned to the topic of "Young People." But this time, the emphasis was on the older generation loving and educating them, with the full knowledge that life had its mortal limits. Writer David Swanson considered the two songs and wrote, "It's always struck me as interesting that Stephen Stills, having written one of the most famous protest songs in the history of American popular music, followed it up with 'Teach Your Children', which is almost the opposite of a protest song. It's a song about hope and promise and the future." "Teach" would have more in common with the earlier "For What It's Worth" than just the themes of adults, youth and their changing relationships. "Teach" would also heavily utilize

creative guitar rifts and would incorporate a Folk-sound in order to give the ballad a more earthy tone. Some observers would even later stipulate that the song was almost a country tune (Billboard 1970).

Aftermath of the Song

Stills' "For What It's Worth", the revolutionary anthem of the 1960s, has become one of the most-covered protest songs, having been covered by artists including Ozzy Osbourne, Cher, and even The Muppets (WhoSampled). Due to its broad lyrics, this song can be applied to numerous social issues, and therefore has been a staple of much social action over the course of the last six decades. Overall, the anthem represents the cry of this nation's youth for social rights and encourages them to persist in their push for the equality of all social groups.

As an advocate against the apartheid government in South Africa, Miriam Makeba often voiced these issues in her music. The all-white apartheid South African government enforced legislation requiring the segregation of white and black facilities. So, the renowned singer-songwriter pushed for the rights of blacks not only in South Africa, but also across the world. As her international fame rose, her music transformed from upbeat dance songs like "Pata Pata", one of her first releases in the 1960s, to songs with heavier topics like "Soweto Blues", a protest anthem that brought to awareness the injustice Soweto school students had to face when shot by apartheid police after having their native African languages banned from schools (SAHO).

Miriam Makeba released her cover of "For What It's Worth" in 1970. Her nasal-toned yet euphonious vocals coupled with the clash of percussion on the word "stop" emphasized Makeba's efforts to use this form of artistic activism in order to promote her own causes regarding civil rights (WhoSampled). By 2011, the top one percent of income earners saw a 275% increase in household income, but the lower end of this scale only saw an 18% increase (Kim 2011). This practically forced the topic of income inequality into public conversation. In September 2011, hundreds of protesters collected in Zuccotti Park in Manhattan to protest disparities in income and exploitation in the corporate world (History.com, Editors 2021). This movement was publicized by an anti-consumerist journal called Adbusters. With the hashtag #OccupyWallStreet tweeted, this was one of the most viral activist movements on social media (Komlik 2014).

Music played a huge role in these protests. From Kanaska Carter to Bruce Springsteen, a number of artists came to perform. Notable were David Crosby and Graham Nash, members of the band Crosby, Stills & Nash. They performed "Long Time Gone", "They Want It All", "Teach Your Children", and "For What It's Worth". Nash told Rolling Stone, "People are recognizing the basic truth that the system is loaded against them, and they're looking for equality." Similar to the 1960s Sunset Strip Riots, people were fighting for equal rights, and that is what music helps bring recognition to. Nash said, "It's the people waking up. That's what we do as musicians…I want people that are alive and thinking and trying to do something positively to change their situation" (Rolling Stone). This is exactly what the lyrics of "For What It's Worth" brought to the streets of lower Manhattan. The lyrics, "What's that sound, everybody look what's going down," perfectly portrayed the performers' hopes, including Nash and Crosby's, to bring attention to the several issues important in the riots, predominantly income bias and corporate exploitation. By bringing this attention of the riots' causes to the Manhattan crowds with these epochal anthems, musicians hoped to bring the attention of the riots's causes to legislators and income-regulation organizations.

The results of this were phenomenal. Occupy Wall Street resumed the trend of decentralized activist action; only this time, it opened the air for social-media messaging, meme tactics, and live-streaming, giving more attention to this decentralized activism. As Occupy Wall Street Protester Dana Balicki said, "We changed the way that people hear and see and understand and process a narrative of resistance", the protests gave activists a

newfound sense of courage, sparking a series of more decentralized activist movements like Black Lives Matter and the People's Climate March. A few years later, Occupy opened up the 2012 Fight for $15 Movement in which workers called for a 15-dollar minimum wage. More than half of the states in the US ended up establishing this minimum wage. Nationwide Black Friday protests were organized at Walmart, leading to higher pay for Walmart employees. With all this said, the work of several artists during Occupy Wall Street, including Nash and Crosby's performance of "For What It's Worth", was vital in establishing a new form of activism that would later on help movements in all fields, including workers' rights, climate change, and racial equality, to flourish in their causes (Levitin 2021).

On the opening night of the 2020 Democratic National Convention, Billy Porter and Stephen Stills wowed the audience with a performance of "For What It's Worth". In an interview with Variety, Stills said, "Billy and I were first talking about this on the day that George Floyd died - he was throwing furniture around in his apartment, he was so angry" (Aswad 2020).

Porter and Stills performed a satirical version of the anthem and hoped to advocate black rights. Behind them, emblazoned on the quasi-dynamic red and blue background in a large, white font, the word "stop" appeared several times. This was a clever move on the side of the Democratic Party to grab the attention of youngsters and allow them to really think about the situation at hand, and how just like the social rights of young people were stripped from them in LA in the 1960s, rights were now being stripped from blacks. As an Emmy, Tony, and Grammy winner and an avid black rights supporter, Porter said, "I hope our version of 'For What It's Worth' will raise people up and inspire them to take action, use their voice, and vote, vote, vote."

As Porter had hoped, his performance of this song motivated young people and instilled in them a sense of desperation to take political action to fight for equal social rights. Porter's thigh-high boots and dramatic high-collared vest, as well as his incredible vocals and dance moves left the audience wonderstruck and was sure to grab the votes of these youngsters watching (Stephen Stills 2020). Stevie Nicks of Fleetwood Mac fame released her cover of "For What It's Worth" early in 2022 along with producer Greg Kurstin, guitarist Waddy Wachtel, and backing vocalist Sharon Celani. While grasping the nostalgic essence of the song, Nicks' raspy vocals brought her own story-telling to the anthem. She used her rendition of the song to advocate for women's rights, having witnessed the 2017 Women's March, the Iranian protests for the death of Mahsa Amini, and the overturning of Roe v. Wade. "I wanted to interpret it through the eyes of a woman – and in the times that we live in, it has a lot to say," Nicks said. Unlike the original version, Nicks added a twist to the end of the protest song by repeating extended periods of words and phrases including "stop" and "what's that sound". She prolonged these particular words because she wanted to urge women to be aware that their rights were being stripped from them and she hoped to motivate them to take social and political action. Likewise, the singer is known to use her social media platform to advocate women's rights and advise women to be more aware of moments when their birth rights as citizens of the United States are abused (Garcia 2023).

Conclusion

In the mid-1960s, Stephen Stills and Buffalo Springfield composed and released what would become one of the most influential anthems of social protest in modern history, "For What It's Worth". Having been refashioned by distinguished musicians and even adopted in political campaigns, the song eminently transformed the culture of social activism throughout the course of the last six decades. From the total disrespect youth activists faced in the 1960s on account of the violence of the Los Angeles Police Department to the adaptation of a protest song in the 2020 Democratic National Convention, it is clear that the concept of insistent activism has gained much acclaim. This is significant because it represents how profound of an impact music has on society,

as it has not only motivated activists to persevere in pushing for their causes, but it has also led positions of authority to attend to the activist nature of championing for social rights. As the song states, there is something happening here: the evolution of activist culture backed by a single 1966 protest anthem played and performed in countless acts of political and social crusading throughout the last six decades.

References

Aswad, Jem. 2020. "Stephen Stills Talks His DNC Performance with Billy Porter of 'For What It's Worth.'" *Variety*. Last modified August 17, 2020. Accessed May 30, 2023. https://variety.com/2020/music/news/billy-porter-stephen-stills-dnc-for-what-its-worth-listen-1234737847/.

Bart, Peter. 1966. "47 Seized in Melee along Sunset Strip." *New York Times*. 19 Nov. 1966. Accessed 12 July 2023.

BBC. 2019. "The Vietnam War." *BBC Bitesize*, BBC. www.bbc.co.uk/bitesize/guides/zv7bkqt/revision/2.

Billboard Magazine, May 1970, pgs. 70-80.

Ehrlich, Brenna. 2020. "Watch Billy Porter and Stephen Stills Perform 'For What It's Worth' for 2020.' *Rolling Stone*. Last modified August 18, 2020. Accessed May 30, 2023. https://www.rollingstone.com/music/music-news/billy-porter-stephen-stills-dnc-1045833/.

Garcia, Catalina. 2023. "Stevie Nicks Covers Buffalo Springfield's Protest Anthem 'For What It's Worth.'" *Quiet down.* Accessed May 30, 2023. https://www.quietdownmag.com/news/stevie-nicks-for-what-its-worth.

Gitlin, Todd. 2013. *The Sixties: Years of Hope, Days of Rage*. Bantam.

Goodale, Gloria. 2011. "Occupy Wall Street: Is It Becoming Your Father's – Even Grandfather's – Movement?" *The Christian Science Monitor.* Last modified October 8, 2011. Accessed May 30, 2023. https://www.csmonitor.com/USA/Politics/2011/1008/Occupy-Wall-Street-Is-it-becoming-your-father-s-even-grandfather-s-movement.

Hajek, Danny. 2019. "A Thousand People in the Street: 'For What It's Worth' Captured Youth in Revolt.' *NPR*. Last modified February 20, 2019. Accessed May 30, 2023. https://www.npr.org/2019/02/20/693790065/buffalo-springfield-for-what-its-worth-american-anthem.

History.com Editors. 2021. "Occupy Wall Street Begins." HISTORY. Last modified September 14, 2021. Accessed July 15, 2023. https://www.history.com/this-day-in-history/occupy-wall-street-begins-zuccotti-park.

Jackson, A. 2022. "Everybody Look What's Going Down: The Sunset Strip Riots." *JSTOR Daily*, 17 August 2022, daily.jstor.org/everybody-look-whats-going-down-the-sunset-strip-riots/.

James, Frank. 2011. "Capitol Hill Democrats Show Solidarity with 'Occupy Wall Street' Protesters." *NPR.* Last modified October 5, 2011. Accessed May 30, 2023. https://www.npr.org/sections/itsallpolitics/2011/10/05/141086944/occupy-wall-street-protests-get-shoutout-from-capitol-hill-democrats.

Kim, Susanna. 2011. "Top 1 Percent's Income Grew 275 Percent from 1979 to 2007." *ABC News*. Last modifed October 26, 2011. Accessed July 15, 2023. https://abcnews.go.com/Business/income-doubles-top-percent-1979/story?id=14817561.

Komlik, Oleg. 2014. "The Original Email that Started Occupy Wall Street." *Economic Sociology and Political Economy*. Last modified December 27, 2014. Accessed July 15, 2023. https://economicsociology.org/2014/12/27/the-original-email-that-started-occupy-wall-street/.

Kudler, Adrian Glick. 2013. "Sights and Sounds of the November 1966 Sunset Strip Riots." *Curbed LA*, 12 Nov. 2013, la.curbed.com/2013/11/12/10175934/sights-and-sounds-of-the-november-1966-sunset-strip-riots.

Levitin, Michael. 2021. "Occupy Wall Street Did More than You Think." *The Atlantic*. Last modified September 14, 2021. Accessed July 15, 2023. https://www.theatlantic.com/ideas/archive/2021/09/how-occupy-wall-street-reshaped-america/620064/.

Meares, Hadley. 2019. "Rebellion and Rock "N" Roll: The Sunset Strip in the '60s." *Curbed LA*, 7 Mar. 2019, la.curbed.com/2019/3/7/18244871/sunset-strip-whisky-riots-bars.

"Miriam Makeba." South African History Online. Accessed July 15, 2023. https://www.sahistory.org.za/people/miriam-makeba.

Nolan, Emma. 2020. "Billy Porter's Bizarre DNC Performance Likened to 'Tim and Eric' Skit." *Newsweek*. Last modified August 18, 2020. Accessed May 30, 2023. https://www.newsweek.com/billy-porter-dnc-performance-tim-eric-comedy-1525834.

Rasmussen, Cecilia. 2007. "Closing of Club Ignited the 'Sunset Strip Riots.'" *Los Angeles Times*. Last modified August 5, 2007. Accessed May 30, 2023. https://www.latimes.com/archives/la-xpm-2007-aug-05-me-then5-story.html.

Rolling Stone Interview, May 1972, and Rolling Stone Interview, 2013.

Russel, Cheryl, and New Strategist Publications, Inc. The Baby Boom: Americans Born 1946 to 1964. Ithaca, New York, New Strategist Publications, Inc, 2015.

Stephenstills.com. 2020. "Stephen Stills and Billy Porter Rally Voters with 'For What It's Worth' Remix." Stephen Stills. Last modified October 6, 2020. Accessed July 15, 2023. https://stephenstills.com/blogs/news/stephen-stills-and-billy-porter-rally-voters-with-for-what-it-s-worth-remix.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310095

Public Policies versus Public Entrepreneurship

Doina Mureșan

"Dimitrie Cantemir" Christian University, Bucharest, Romania
University Professor, Vice-Rector, doina.muresan@ucdc.ro

ABSTRACT: The paper enhances the current understanding of public administration's support for entrepreneurship, providing knowledge that could generate interest in this topic. It analyzes the collaboration among public policies, the public sector, the private sector, and non-governmental organizations, and the following dependent variables: innovation, e-government and digitization, entrepreneurship support ecosystems, and risks in this approach. The academic significance of this research lies in its provision of evidence for the moderating role of NGOs in expanding PPPs to support entrepreneurs. The paper reviews European and national specialized literature in the field of social entrepreneurship. This review focuses on the role of public administrations in supporting social projects and proposes a conceptual model that outlines its empirical boundaries. Additionally, the paper outlines the statistical methods used for this part of the analysis. The findings then lead to suggestions for future research on the role of public administration as a facilitator of social entrepreneurship.

KEYWORDS: public entrepreneurship, public policies, public private partnership, social entrepreneurship

1. Introduction

Various global megatrends are impacting the development of the public, entrepreneurial, and creative sectors. Digitization has already altered value chains in certain sub-sectors, and digital technologies are more than a "contextual factor"; often, they are an "enabling factor", or even a radical step in the context of the new revolution, changing how the economy - its branches, methods, and tools - is planned, produced, accessed, or transferred. Other megatrends also exert a significant influence on entrepreneurship and innovation in the creative sectors, offering new possibilities. These encompass the sharing economy, new technologies (virtual reality, real-time data, smart home technology, etc.), changes in working life, and climate change.

2. The role of public policies in the development of entrepreneurship

Innovation, entrepreneurship, and the creative sectors are interconnected topics, a relationship also evident in various EU policy initiatives and funding programs. Examples include the EU Innovation Union as part of the Europe 2020 strategy, the EU Regional Smart Specialization Strategies and Platform, Horizon 2020, COSME (which includes Erasmus for young entrepreneurs), Start-up Europe, Erasmus+, and select EU structural and investment funds. The association between public policies and public entrepreneurship is close, primarily linked through the concepts of innovation and creative solutions.

Our research is grounded in the understanding that innovation can be delineated by two core elements. Firstly, it introduces novelty (innovation presents a new idea in relation to an existing concept). However, this concept must transition from theory to practical application. Yet, innovation encompasses more than just technical or scientific novelties; it can also involve changes in processes and organizational structures across various sectors. The second element introduces a teleological criterion, asserting that a technical novelty or a new approach can be deemed innovative only if it brings economic and societal advantages. Given this backdrop, we assert that innovation is a process wherein novelty must accrue social recognition and acceptance over time.

In this context, there are specific aspects within this domain that warrant attention. So, ***Innovation in Europe often takes place with the support of public policies and subsidies***. As

the economic literature of the 21st century shows, the private sector often invests after the public sector has made high-risk investments. In the best cases, this order leads to a mutually supportive relationship between innovators and public policy, often integrating contributions from research and academic institutions.

Innovation is often perceived as a digital or technological and cultural problem and the creative sectors are often overlooked or even excluded from most initiatives aimed at promoting innovation. Integrated policies are needed that take into account the specific characteristics of these sectors and encourage and facilitate an intersectoral and transsectoral partnership between all stakeholders.

We are alluding to the utilization of inventive methodologies and concepts in the formulation of public policies and services, with the objective of instigating notable enhancements in citizens' quality of life and administrative efficiency. In particular, our focus rests on the exploration of novel and unorthodox approaches to problem-solving, alongside a proactive responsiveness to changes and demands. In Romania's public policies over the past decade, endeavors to incorporate facets of innovation and creative solutions are discernible.

These efforts have manifested through diverse measures, such as digitization and e-government initiatives. During this phase, Romania directed investments towards the development of online services and digital platforms, facilitating streamlined access for citizens and businesses to public services, thereby augmenting efficiency and curtailing bureaucratic hurdles. In this context, let us illustrate with specific instances, emblematic of initiatives mirrored in public policies that pertain to digitization and e-government implementations in Romania.

A notable case is the "Digital Romania" Program, an initiative formulated to expedite Romania's digital transformation and extend its benefits to citizens and businesses. This program encompasses a range of measures, including enhancing Internet accessibility, fostering digital competencies, catalyzing digital innovation across both public and private sectors, and amplifying the adoption of online services in the public sphere.

"National, regional, and local governance levels should establish integrated ecosystems for Cultural and Creative Sectors (CCS), facilitating access to support structures and programs through a 'one-stop shop' approach. Ecosystems endorsing entrepreneurship and innovation should incorporate comprehensive measures encompassing both CCS and other business sectors" (European Union 2018). A particularly enlightening example in this context is the "giseul.ro" platform – an online platform affording citizens and companies access to a wide array of public services. This enables actions and information retrieval without the necessity of physical presence at public institution counters. The platform spans various domains, including taxes and fees, health system enrollment, issuance of official documents, among others.

Additionally, we introduce the policy of expediting digitization in public administration, executed by the Romanian Government to revamp and modernize public administration through digital technology utilization. This initiative encompassed the introduction of electronic signatures for official documents, development of online services catering to citizens and businesses, as well as implementation of e-government platforms streamlining interactions with public institutions. The ongoing emphasis on digital transformation is evident, reflecting the priority of numerous European governments, including that of Romania. The overarching goal is to simplify citizen interactions with public services and heighten administrative efficiency.

Another strategy involves fostering the establishment of innovation hubs and startup spaces, which serve as platforms for collaboration between the public, private, and academic sectors. These collaborative environments are aimed at devising fresh and inventive solutions to a multitude of challenges. This is facilitated by crafting financing initiatives from European funds to bolster innovative projects in domains such as health, education, and infrastructure. In Romania, the proliferation of innovation hubs and startup spaces has surged in recent years, heralded as a means to nurture entrepreneurship and technological innovation. An instrumental

legal framework that has contributed to the expansion of innovation hubs and the startup ecosystem is Law no. 163/2018, specifically designed to foster startup activity. This legislation aids in cultivating an environment conducive to innovative enterprises, propelling startup development, and attracting investments in this sphere.

Universities assume a pivotal role in shaping the innovation and startup ecosystem. Their contributions span technological expertise and intellectual resources, facilitating the transfer of knowledge from academia to the business realm. Through the establishment of innovation centers and collaborations with startups, universities play a pivotal part in fostering the evolution of groundbreaking products and services.

Furthermore, collaboration between the government and the private sector (in the form of public-private partnerships) can be instrumental in championing innovation. These partnerships can facilitate technology transfer, furnish funding avenues, and formulate supportive policies for startups and pioneering projects. This underscores how public entrepreneurship fosters innovation within the process of crafting public policies. By adopting an entrepreneurial approach, governments can devise solutions that are not only more efficient and expedited but also better tailored to the genuine needs of their citizens. The application of entrepreneurial principles to policy development can thus pave the way for a more sustainable and impactful resolution of societal and economic challenges.

3. Collaboration between the public, private and non-governmental sectors

This form of collaboration has the potential to yield more comprehensive and effective policies by leveraging diverse perspectives and resources. Moreover, it can foster an environment conducive to innovation, job creation, and economic expansion.

Both European policy within this domain and national legislation, such as that of Romania, assume a pivotal role in delineating the objectives, tools, and outcomes of such collaborations. At the European level, numerous initiatives and policies have been set in motion to promote entrepreneurship and facilitate cross-sectoral collaboration.

For instance, the European Union's Framework Program for Research and Innovation, formerly Horizon 2020 and now succeeded by Horizon Europe, has supported pioneering projects and entrepreneurial growth through partnerships with universities, industries, and other entities. EU policies have also actively encouraged public-private partnerships to enhance access to funding, resources, and expertise.

In the context of Romania, similar efforts are evident. Legislation and programs have been formulated to foster collaboration between the public, private sector, and non-governmental organizations in the realm of entrepreneurship. Notably, the Law on Public-Private Partnership (Law no. 233/2016) serves as a legal foundation for collaborations between these sectors, particularly in the execution of projects with economic and societal implications. Additionally, there exist national and local initiatives that provide support for entrepreneurs, often involving non-governmental organizations in the provision of consultancy and training services. We wish to highlight the inherent nature of experimentation and swift adaptation fostered by public entrepreneurship. This ethos prompts the exploration of novel solutions and their rapid adjustments in response to outcomes. This approach empowers governments to test ideas and recalibrate policies in real time, thereby sidestepping the squandering of resources on ineffective solutions. Additionally, we emphasize the policy's capacity to influence change – entrepreneurial initiatives can spotlight overlooked issues and propose inventive avenues for their resolution.

In defining the primary goals of collaboration among the public sector, private sector, and non-governmental organizations within the realm of entrepreneurship, we underscore the following:

1. **Promotion of Innovation:** Collaboration with the private sector and universities can serve as a catalyst for innovation. Such partnerships encourage the development of cutting-edge products and services, fueling innovation in various domains.
2. **Enhanced Access to Financing:** Collaborative efforts enable increased access to funding. This can facilitate entrepreneurs' financial access via European funds, public-private partnerships, and other initiatives, fostering a more conducive environment for entrepreneurship to thrive.
3. **Skill Development:** The pivotal role of non-governmental organizations in providing training and consultation programs for entrepreneurs plays a vital part in nurturing entrepreneurial skills. This aspect contributes to skill enhancement and capacity building within the entrepreneurial ecosystem.

In essence, these collaborative endeavors between distinct sectors culminate in multifaceted benefits, encompassing innovation, financial accessibility, and skill amplification. The instruments used to achieve the mentioned objectives include Public-Private Partnerships (formal agreements between public authorities and private companies for the development of economic projects), European Funds (the Horizon Europe Program, the European Fund for Strategic Investments and other EU-funded programs can support entrepreneurial projects) and Training Programs (NGOs can offer training and mentoring programs for entrepreneurs).

The benefits and costs of the Public Private Partnership (PPP) approach are diverse. Both entities (public and private) register in the "benefits" part:

1. spending on providing demonstrator and testing that can stimulate the economy;
2. assign the project to the sector best positioned to mitigate each individual risk;
3. benefit from large-scale innovation and improved quality of standards by introducing competition in the procurement of public sector services" (Probst et al. 2013).

However, on the flip side, the same study highlights that the procurement process for Public-Private Partnerships (PPPs) can be protracted and resource-intensive. Additionally, it raises the point that these partnerships may not always result in effective risk transfer.

Existing literature indicates the necessity for public entities to delve into and comprehend the potential, obstacles, and shortcomings of social entrepreneurship. They are tasked with a pivotal role in fostering localized and direct action toward such initiatives. Notably, the intentions driven by entrepreneurship in various sectors of the economy and their contributions to the evolution of social entrepreneurship merit special consideration and attention from governing bodies (Lupoae et al. 2023).

Social entrepreneurs emerge as principal stakeholders in the pursuit of reconstructing local economies. However, their endeavors are optimally realized when local public authorities furnish the requisite legal, logistical, and financial infrastructure to support these ventures. This underscores the criticality of heightened engagement from local public administrations in social entrepreneurship initiatives, aligning with the substantial significance of social projects for the well-being of local communities.

In conclusion, it can be inferred that social entrepreneurial behaviors predominantly stem from the allocation of funds by public institutions aimed at fulfilling social missions. Simultaneously, these behaviors seize upon income-generating prospects that arise from addressing social issues. The genesis of social value materializes as a consequence of the strategic choices made by public institutions concerning societal outcomes. This process also involves the exploration of innovative avenues to deliver entrepreneurial solutions aimed at tackling social challenges (Gali et al. 2020).

4. Conclusion

The practical implications stemming from this study underscore the necessity for public policies to actively engage private companies in co-financing social projects via Public-Private Partnerships (PPPs). Additionally, this study contributes new insights to the existing literature

on public entrepreneurship by highlighting the augmented value conferred upon communities through the interconnected contributions of stakeholders – encompassing public authorities, private enterprises, and non-governmental organizations (NGOs) – within social projects.

Furthermore, managerial figures within public institutions are steadfastly dedicated to cultivating partnerships with social entrepreneurs and NGOs. This concerted effort is driven by the aspiration to fulfill the Sustainable Development Goals (SDGs), recognized as the SDGs, as articulated by Chopra et al. (2022). This commitment underscores the overarching objective of achieving sustainable and holistic development, guided by partnerships that span diverse sectors and stakeholders.

References

Chopra, Muskaan. 2022. "Analysis & prognosis of sustainable development goals using big data-based approach during COVID-19 pandemic." *Sustainable Technology and Entrepreneurship,* Volume 1, Issue 2, May–August, https://doi.org/10.1016/j.stae.2022.100012.

European Union. 2018. "*The role of public policies in developing entrepreneurial and innovation potential of the cultural and creative sectors.*" Report of the OMC (Open Method of Coordination) working group of member states' experts. Luxembourg: Publications Office of the European Union. https://op.europa.eu/en/publication-detail/-/publication/5d33c8a7-2e56-11e8-b5fe-01aa75ed71a1/language-en.

Galí, Jordi. 2020. "Helicopter money: The time is now." Mitigating the COVID Economic Crisis:Act Fast and Do Whatever It Takes. *CEPR Press Centre for Economic Policy Research*, https://cepr.org/voxeu/columns/helicopter-money-time-now.

Lupoae, O. D., Capatina Al., Radu R., Isai V., Schin G. 2023. "Exploring entrepreneurial intentions within equine sector from Romania: an environmental economics approach." *Journal of Ethics in Entrepreneurship and Technology* 3(1): 33-51. https://doi.org/10.1108/JEET-09-2022-0013

Probst, Laurent, Monfardini Erica, Frideres Laurent, Demetri Dawit, Kauffmann Alain, Clarke Steven & Schnabel Lina. 2013. *"Public-Private Partnerships for Entrepreneurship Development: Case Studies from Europe."* PwC Luxembourg.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310099

Evaluation of Mental Health in Educational Institutions: A Theoretical Overview of Systematic Implementation in Schools

Jiyoon Han

Northern Valley Regional High School, Old Tappan, New Jersey, USA, jy006.han@gmail.com

ABSTRACT: Adolescence is a stage in life in which many students undergo social, emotional, academic, and moral changes. Psychiatric problems and markers of mental disorders are highly prevalent among students, ranging from distress and anxiety to depression and sleep disorders. Continuation of minor symptoms during adolescence can possibly lead to major depression, insomnia, and panic disorder in adulthood. The state of mental wellness is not examined as often as physical health even though mental health is volatile and is one of the most delicate parts of human health. In the present-day, mental illnesses are still highly stigmatized at the interpersonal level and the frequency of utilizing mental health care is significantly low compared to its increased accessibility. The purpose of the paper is to introduce a theoretical framework that reveals the importance of managing mental health from adolescence and how increased mental health care in educational institutions can provide students with a positive transition into adulthood.

KEYWORDS: Mental Health, Mental Illness, Educational Institution, Adolescence, Emotional Learning, High-risk, Behavioral Health, Stigma

Introduction

Mental health as a subject matter has surfaced with widespread presence as recent decades have seen a sharp rise in mental health conditions. The World Health Organization (WHO) has reported roughly 20% of children and adolescents worldwide with a mental health problem, many of which have lived with disability (WHO 2017). Although suicide is known to be the second greatest common death cause among 15-28-year-olds and two of the most prevalent mental health conditions (depression and anxiety) have a yearly global economic cost of $1 trillion each year, the government health expenditure towards mental health has a staggering global median of less than 2% (WHO 2017).

The National Institute of Mental Health (NIMH) reveals that roughly one in five people suffer from a mental disorder or condition, with one in ten having a severe mental health challenge, impairing their functioning in the community or at home and school (NIMH 2021). Despite the fact that 50% of mental illnesses manifest early signs at age fourteen, many individuals refrain from seeking help until adulthood, or worse, ever (American Psychiatric Association - APA 2021). As a result, research has shown that of the vastly affected children and adolescents aged six to seventeen, one-half to 80% of them lack the mental health care that the demographics call for (Association for Children's Mental Health - ACMH n.d.).

Mental health in adolescents is influenced by two factors: individual attributes and the everyday life contexts. School is a key developmental setting in which the majority of adolescents spend a considerable amount of time in, making educational facilities an optimal environment for students to receive timely and accessible mental health services (Richter, Sjunnestrand, Strandh, & Hasson 2022). Dunn and his colleagues (2016) discuss schools' indispensable role in attending to adolescents' mental health as they occupy over 95% of the nation's youths for almost six hours every day for at least eleven years of their lives (Sutherland 2018). Accordingly, students experiencing difficulties with mental health at school often display "poor school adjustment, reduced concentration, low achievement, problematic social relationships and a higher rate of health risk behaviors, such as substance

use, school dropout and incurring expulsion" (Cavioni, Grazzani, Ornaghi, Agliati, & Pepe 2021). Adolescence provides critical opportunities to not only assist students in developing the foundation for mental health, but to also prevent and address problems, and education is closely interlinked to making this possible. Across the nation, only 40% of students with mental health disorders graduate from high school, in contrast to the national average of 76%, with more than 50% of students with emotional and behavioral challenges dropping out (ACMH n.d.).

Consequently, state sector agencies, in particular educational institutions, are an ideal mechanism for not only detecting students' mental health challenges, but also administering to their various needs to reach academic success (Adelman & Taylor 2011). The Centers for Disease Control and Prevention (CDC) states, "…Establishing healthy behaviors to prevent chronic disease is easier and more effective during childhood and adolescence than trying to change unhealthy behaviors during adulthood" (CDC 2022). And although mental health services are available beyond the school setting, such community services tend to be underutilized, with only 20% of youths receiving assistance related to mental health (Richter et al. 2022). Evidently, school-based mental health has become an integral facet of student support- the education field itself has shown acknowledgment in progression from addressing mental health concerns to directly intervening and implementing structures centered on supporting individuals facing challenges (Whitley 2010). Many school districts have actively responded, with over one-third of them using school or district staff members to implement mental health services, and over one-fourth using outside agencies (Youth, n.d.). However, while school-based mental health (SBMH) has proved to settle recognized setbacks that preclude access to these services, there is an excessive variation in interventions used and "limited evidence" that guarantees their effectiveness (Richter et al. 2022).

Therefore, the following sections examine the relevant research on the endorsement of mental health in educational settings, proposing a comprehensive SBMH framework that intends to provide a theoretical guide for researchers and policy-makers interested in forming conceivable and affordable SBMH programs for students, family, and staff.

School mental health: drawbacks and terminology

Mental health is defined as the "state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community" (WHO 2022a). While the term mental health is defined in such a way, there has been confusion surrounding its use, despite the numerous different studies and research conducted on the general topic. Likewise, the divergence in approaches by different institutions may be partly owed to the fact that the broad issue raises confusion. For instance, there are countless school mental health interventions in operation around the globe, of which many fall under the names 'mental health', 'social and emotional learning' (SEL), 'emotional intelligence', 'emotional literacy', 'resilience', 'life skill' and 'character education' (Weare & Nind 2011). Such terms can be conducive to an increase in stigma around the topic of mental health as they are all used to refer to the same matter. Likewise, research has shown that the term mental health is often correlated with mental illness, which in turn draws attention to the problematic aspects of mental health in place of the entire context. It is important to note that a mental disorder or illness is defined as "a clinically significant disturbance in an individual's cognition, emotional regulation, or behavior" and is often related to "distress or impairment in important areas of functioning" (WHO 2022b). See figure 1 below.

Evidently, the World Health Organization (WHO) defines the two terms differently, giving mental health a more holistic approach. In particular, mental health implies both the positive and negative attributes of managing a variety of obstacles in life, whereas mental illness describes a deterrence in life significant enough to hinder one's abilities to cope with

those obstacles. Other than the various definitions and heterogenous approaches, the programs are fundamentally complex, which contributes to the difficulty of implementation (Richter et al. 2022). Moreover, depending on the individual defining mental health, the meaning varies, which adds to the challenge of providing a definite interpretation. Therefore, based on the social group and its values, the term can be uniquely and socially defined. The WHO's definition not only clarifies the term mental health, but also reflects the importance of mental health in every student's education.

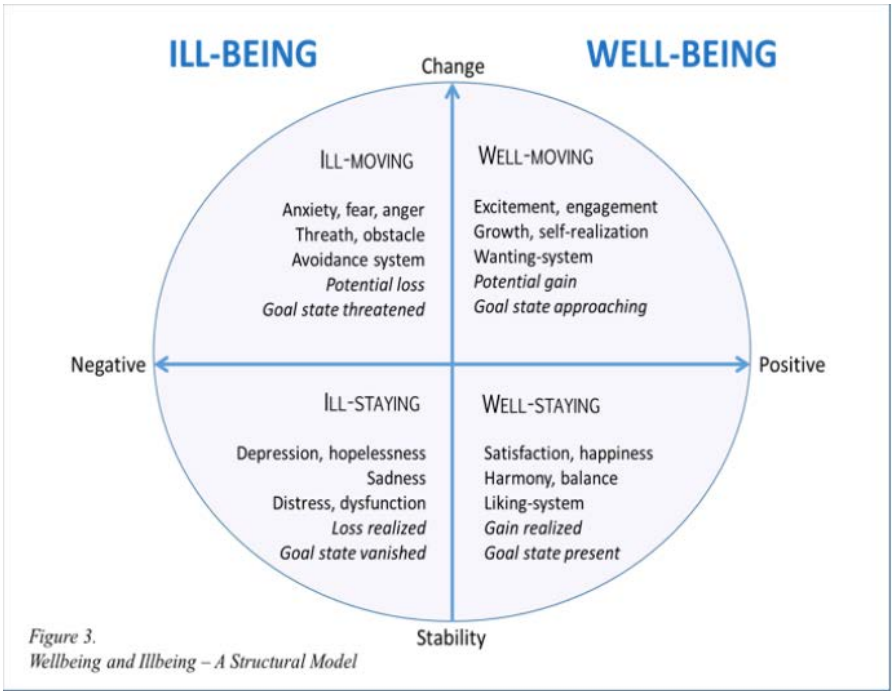

Figure 1. A model of mental health (well-being) vs. mental illness (ill-being)

Source: Pressbooks n.d.

Even though the idea of mental health applies to the entire school community, there is evident stigma in relation to mental health in schools. Such stigma is rooted in the perception that schools are unrelated to the "mental health business", particularly in treatment or support of mental challenges, and rather related to learning and teaching; this idea also traces back to society's tendency to correlate mental health with mental illness. However, when the education of a student is influenced by their mental health condition, the school would then intervene (Adelman & Taylor 2006). This attitude towards mental health not only encourages the stigmatizing perception that mental health carries an unfavorable connotation, but also leads the school in a less proactive and rather unreceptive state in communicating with students. With greater emphasis on mental health in schools, views have evolved through research on the correlation between mental health and student academic achievement in educational facilities (Askell-Williams & Cefai 2014). According to the New York State Education Department (NYSED), "the quality of the school climate may be the single most predictive factor in any school's capacity to promote student achievement. Likewise, when students are sufficiently educated about mental health, it is more likely that they will better identify indications of illness and exercise healthy decision-making. And while there may be greater attention on mental health as of recent, there exists self-barriers to seeking treatment including "lack of perceived need, being unaware of services or insurance coverage, skepticism about effectiveness, or being Asian or Pacific Islander" (University of Michigan, 2007). Most importantly, greater knowledge and awareness gives mental health the respect it needs, while providing students, families, teachers, and communities the ability to seek help, achieve high performance, and save lives (NYSED n.d.).

Theoretical framework: analysis and needs

In addition to all of the research conducted, there is still a need for a clear delineation of school mental health, which calls for a thorough conceptual framework that addresses the following concerns. To begin, there is an increasingly unmet demand for mental, social, and behavioral health services for adolescents (NASP 2021). However, considering that students tend to seek services and counseling in a school environment, it is important to provide a sequence of services to thoroughly address the scope of students' needs. An effective method would occur through a multitiered system of support (MTSS), which allows schools to support mental wellness, recognize and confront problems in time, as well as supply students with efficient services for different students. Moreover, it is important to provide sufficient staff members and mental health professionals such as school counselors and psychologists, for adequate resources and the prevention of shortage (Youth n.d.). In certain cases, like rural regions, schools are the only available source of mental health services within the community (NASP 2021). Figure 2 below is a conceptual model demonstrating the correlation between positive school relationships and sense of belonging with life satisfaction and mental health (See Figure 2). Therefore, a comprehensive and culturally receptive system is helpful in addressing inequities in accessibility and reduction in stigma around seeking help by embedding it in the school's culture and system.

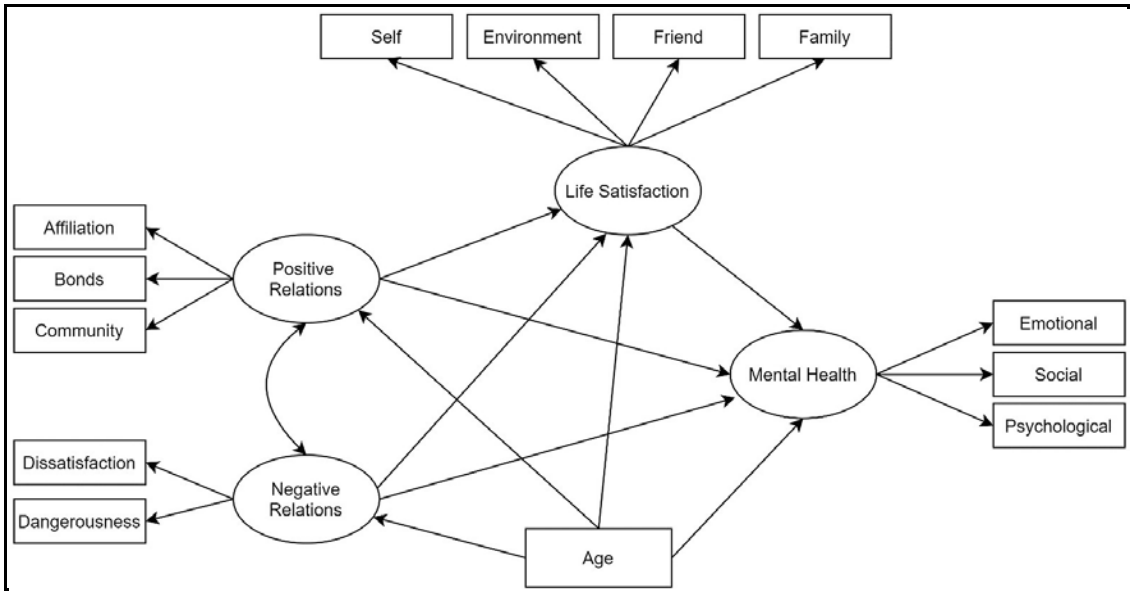

Figure 2. Conceptual model showing the correlation between the different relationships at school, happiness and adolescent mental health. *Source: Frontiers 2021*

Mental health experts from New York have acknowledged the importance of earlier intervention to prevent the escalation of illness and yield better results from students (Barile n.d.). Studies have highlighted the significance of implementing SBMH programs to increase student achievement and build "social skills, leadership, self-awareness, and caring connections to adults in their school and community", while also collaborating with "community partners"; such partnerships yielded an increase in "schoolwide truancy and discipline rates, high school graduation rates, and a positive school environment in which a students can be successful" (Youth n.d.). Hence, an effective system would refer to the 'Whole School, Whole Child, Whole Community' (WSCC) model that values support from the school, child, and community; this includes care for the staff mental health to additionally

sustain teachers' well-being as it is often neglected in the programs that exist (Shelemy, Harvey, & Waite 2019).

As a result, the theoretical framework, built on existing research on promoting and preventing mental health, consists of two major components. The first involves social and emotional learning (SEL) programs, while the second concerns high-risk students and the promotion of behavioral health coverage. Figure 3 demonstrates a graphic representation of the framework, looking at its two components, as well as the overarching function of the WSCC model. In the following parts of the paper, the framework is explained in detail regarding the plausible outcomes and structures of the two components.

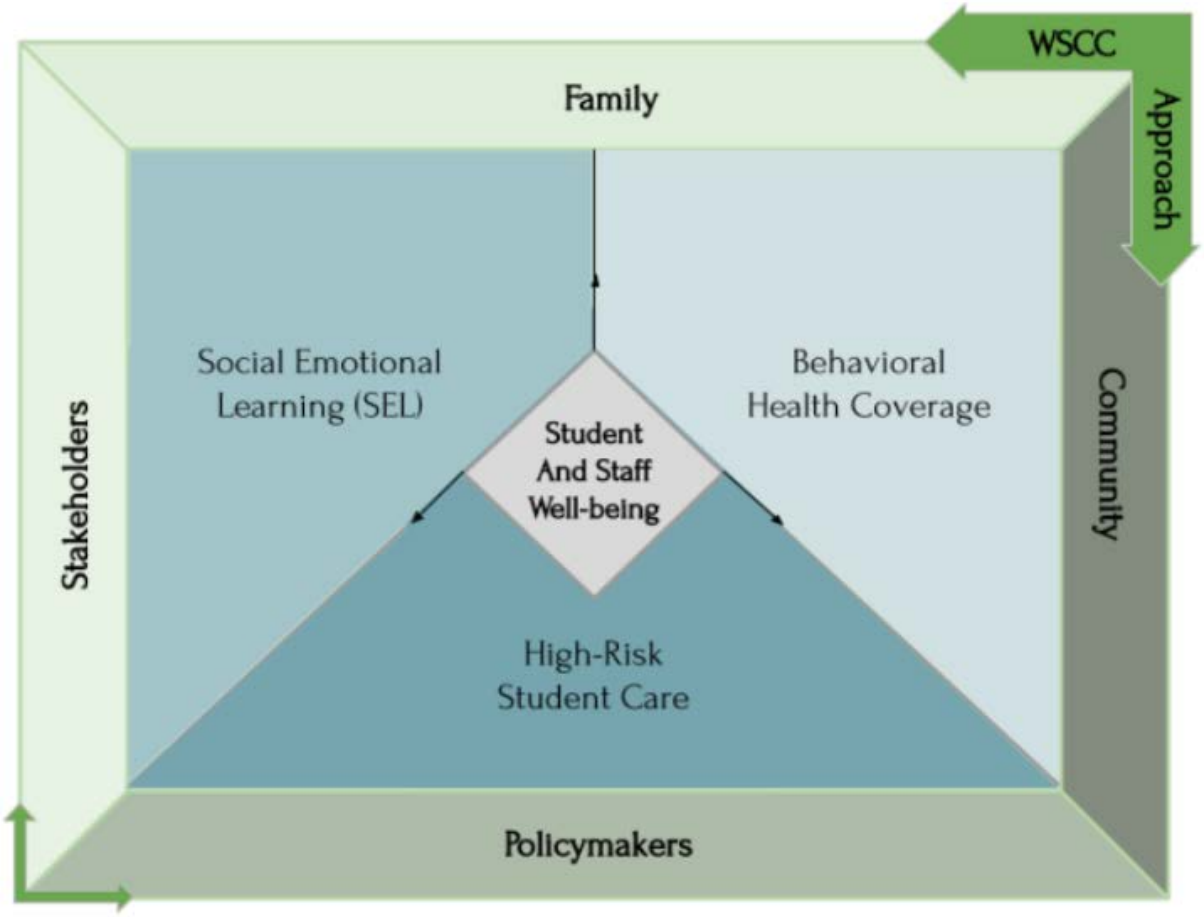

Figure 3. Mental Health in Education: Theoretical Framework *(Han)*

Theoretical framework: social-emotional learning (SEL)

Social-emotional learning (SEL) is a methodology by which students may acquire empathy, positive relationships and decision-making, that according to the SEL Roadmap report by the Collaborative for Academic, Social, and Emotional Learning (CASEL), "promotes responsive relationships, emotionally safe environments, and skills development, cultivating important 'protective factors' to buffer against mental health risks" (CASEL n.d.). In such a way, SEL is a critical aspect of students' mental wellness, allowing them to harbor positive attitudes towards themselves and others while controlling "emotional distress and risky behaviors" (CASEL n.d.). The aforementioned MTSS can also be supported and strengthened by SEL programs in delivering the mental health services. Because it is important that these services are implemented through multiple tiers on a continuum, whether it be the promotion of strengths and prevention of problems, early identification, or comprehensive treatment, SEL practices are critical for building resiliency and various capabilities.

Research supports the positive impact SEL has on various mental health issues, regarding adolescents' academic motivation as well as reduction of risky behaviors (CF Children 2015). Moreover, SEL has shown to improve students' relationships with adults, which is a critical factor in their demonstration of resilience against hardships (Krause 2021). However, another important part of student SEL and mental health is the staff and teachers' well-being themselves (CDE n.d.). Adults that provide help within the school culture must also be valued and supported, by prioritizing SEL for teachers that target "self-awareness, self-management, social awareness, relationship skills and responsible decision-making" (CDE n.d.). A meta-analysis on two-hundred-thirteen SEL programs involving students saw results of immense improvement in their "social and emotional skills, attitudes, behavior, and academic performance", yielding an eleven-percentile-point growth in academic attainment (Pressbooks n.d.).

Furthermore, the promotion of mental health through SEL can be implemented through federal as well as state legislation (CASEL 2008). According to CASEL, the University of Illinois at Chicago reported that Illinois, in 2004, became the first state in the U.S. to apply SEL in student education, with New York following in 2006. This led to the Illinois Children's Mental Health Act, which convinced the Illinois State Board of Education to set SEL standards, by which 893 districts abided by. Lastly, a report by the Network of Experts working on the Social dimension of Education and Training (NESET) also proposed a SEL system under a WSCC approach that covers the well-being of learners, parents, stakeholders, and the local community (European Commission 2022). Many literatures have chosen five major elements of the SEL approach. See Figure 4.

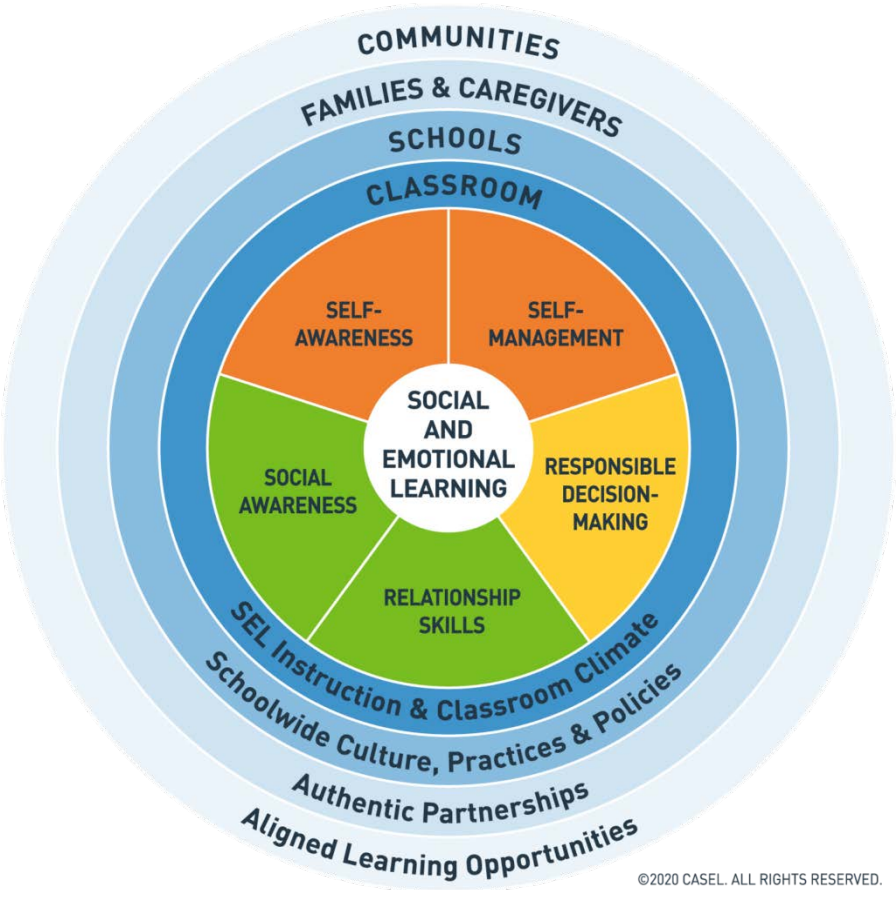

Figure 4: Five main components of social-emotional learning

Source: Fullerton SD n.d.

Theoretical framework: funding and high-risk students

Research has shown that roughly 9.8% of adolescents aged twelve to seventeen don't have health insurance (Pilkey et al. 2013). Moreover, students in need of behavioral health funding/coverage can utilize programs and resources such as Medicaid and Children's Health Insurance Program (CHIP) to access funds (Insure Kids Now n.d.). Moreover, in a survey by the Pew Research Center, the majority of schools reported major limitations to their efforts from insufficient funding (54%) as well as inadequate licensed medical/mental health professionals (40%) (Schaeffer 2022). See Figure 5 below.

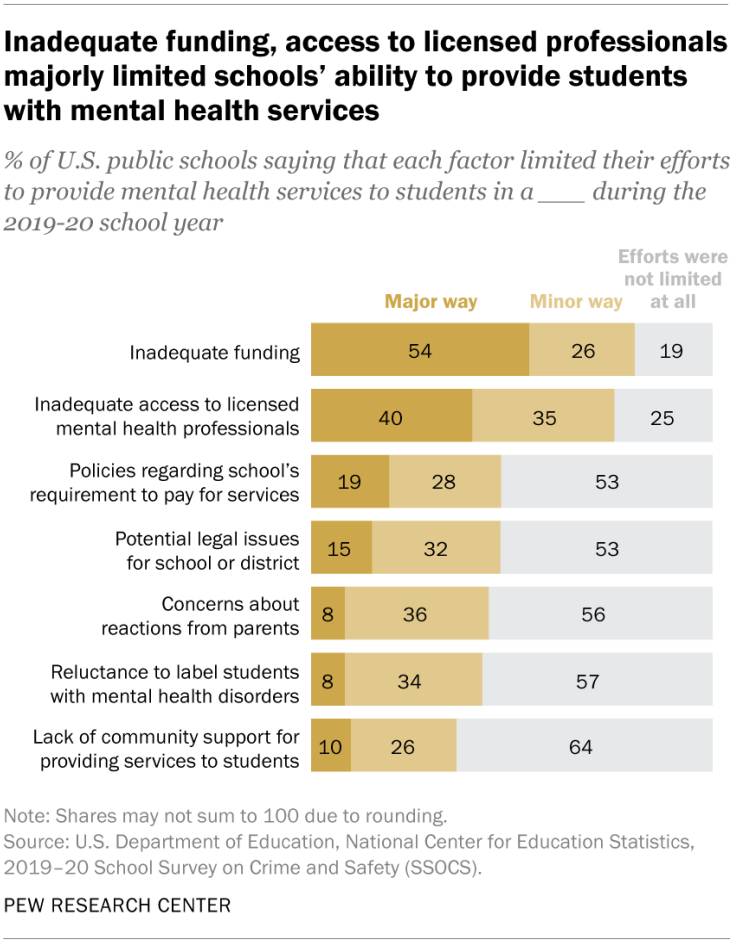

Figure 5. Limiting factors in schools providing students with mental health services

Source: Pew Research Center 2019-2020

Moreover, in the title IV, Part A non-regulatory guidance, SBMH services and counseling are permitted for use of the Every Student Succeeds Act (ESSA) funds, along with many others such as "school climate, family engagement, community partnerships, and the transition of justice-involved youth, as well as reducing the number of dropouts and incidences of bullying and violence" (TP4A Center n.d.). Schools are also able to attain funding for services through "third-party reimbursement", which may also be used as reimbursement for mental health professionals who are affiliated with the school and its students. Moreover, grants, if applied to, give "short-term resources that assist in more affordable funding (TP4A Center n.d.). For instance, the U.S. Department of Education (ED) in February of 2023, announced awards reaching over $188 million over 170 grantees across more than 30 states for better accessibility to SBMH services and greater mental health

specialists in districts that are especially in need. Such investment allows for 5,400 SBMH specialists to be hired, as well as an additional 5,500 for a variety of school health providers (ED 2023).

Secondly, although there is a large population of students that suffer from mental health conditions, not every case is impartial. As a result, it is a priority for high-risk students, including those who experience distressful domestic lives and suffer from disorders or traumatic experiences, to be cared for with great attention. In regions with high poverty rates in which students' families have limited access to insured services, affordability may be an issue regardless of availability (TP4A Center n.d.). Consequently, schools are an essential resource for these students to seek mental health help from. A major concern that SBMH programs can assist with is disparities in the treatment students receive, considering that Hispanic and Black adolescents have a disproportionately high number affected by behavioral health problems, with significantly lower access to substance-use and mental health treatment (SAMHSA n.d.). For instance, from 2010 to 2017, Black adolescent rates of mental health care use fell from 9% to 8% and Latinx adolescent rates rose only 6% to 8%, whereas White youth rates increased from 13% to 15% (Rodgers, Flores, Bassey, Augenblick, & Cook 2022). Additionally, issues regarding stigma around specific cultures are likely to have affected these disparity rates, making schools a helpful resource for resolving this issue, as diversity is on rise (TP4A Center n.d.). The APA recommends practices that are receptive to cultures and thoroughly discuss obstacles such as assimilation, stigma, and discrimination. Students that live in rural regions may have availability and accessibility issues to services, including traveling distance. Yet, such environments may induce powerful social connections, resilience, and a "strong culture of self-sufficiency" within the communities that could contribute to adolescents' mental health necessities (APA 2021).

Conclusion

This paper intends to review existing research regarding mental health in schools with a comprehensive overview that forms a framework that is inclusive of staff and student needs, while involving the community. The theoretical framework presented is evidence-based and consists of two major components, referring to social and emotional learning, staff ratio and wellness, medical coverage and assistance to high-risk students. (e.g., Richter et al. 2022; Sutherland 2018; Dunn et al. 2015; Whitley 2010). It also recognized the critical behaviors and competencies directed towards students and staff in promoting mental health. Mentally healthy students have a far greater likelihood of receiving education with readiness and motivation while maintaining positive relationships with adults and teachers and fostering appropriate competencies that contribute to and benefit from a constructive school culture (Youth n.d.). Policies regarding mental health have great potential to improve their design to not only facilitate implementation but to produce greater academic and mental health culminations.

In conclusion, the authors contend the importance of a whole-school approach while involving wellness programs that consider teachers' mental health as a critical aspect of SBMH approaches. Oftentimes, education facilities have considered and attempted implementation of this broad-ranged system of programs that lack a solidified foundation for the methodologies of incorporation into the school curriculum and overall culture. However, to better this, there is a necessity for further research on the correlation between education and mental health outcomes to bring forth more involved approaches that efficiently and accurately assess emotional and behavioral issues related to learning. Therefore, the framework is proposed to decision-makers and researchers who are open to suggestions for creating SBMH programs that function under a WSCC and SEL approach while targeting students, staff members, families, and specific groups that are in need of coverage and equity.

References

Association for Children's Mental Health (ACMH). n.d. "Problems at School." *ACMH,* https://www.acmh-mi.org/get-help/navigating/problems-at-school/.

Adelman, Howard S., and Linda Taylor. 2011. "Expanding School Improvement Policy to Better Address Barriers to Learning and Integrate Public Health Concerns." *Policy Futures in Education* 9, no. 3 (January 2011): 431–46. https://doi.org/10.2304/pfie.2011.9.3.431.

Adelman, Howard, and Linda Taylor. 2006. "Mental Health in Schools and Public Health." *Public Health Reports* 121, no. 3 (May 2006): 294–98. https://doi.org/10.1177/003335490612100312.

American Psychiatric Association (APA). 2018. "Warning Signs of Mental Illness." *Psychiatry.org,* https://www.psychiatry.org/patients-families/warning-signs-of-mental-illness.

American Psychiatric Association (APA). 2021. "National Report Offers Solutions to Overcome the Three Major Obstacles to Rural Mental Health Care." www.psychiatry.org, November 18, 2021. https://www.psychiatry.org/news-room/news-releases/national-report-offers-solutions-to-overcome-the-t.

Askell-Williams, Helen, and Carmel Cefai. 2014. "APA PsycNet." psycnet.apa.org, February 3, 2014. https://psycnet.apa.org/record/2014-11101-007.

CASEL. n.d. "Connecting Social and Emotional Learning with Mental Health," https://files.eric.ed.gov/fulltext/ED505361.pdf.

CASEL. n.d. "SEL and Mental Health," n.d. https://casel.org/fundamentals-of-sel/how-does-sel-support-your-priorities/sel-and-mental-health/.

Cavioni, Valeria, Ilaria Grazzani, Veronica Ornaghi, Alessia Agliati, and Alessandro Pepe. 2021. "Adolescents' Mental Health at School: The Mediating Role of Life Satisfaction." *Frontiers in Psychology* 12, no. 1 (August 18, 2021). https://doi.org/10.3389/fpsyg.2021.720628.

CDE. n.d. "How SEL and Mental Health Supports Can Be Incorporated into Daily Learning | CDE." www.cde.state.co.us, https://www.cde.state.co.us/coreadingwriting/social-emotional-health-and-learning.

Committee for Children. 2015. "Promoting Mental Health through SEL." Committee for Children, January 6, 2015. https://www.cfchildren.org/blog/2015/01/promoting-mental-health-through-sel/.

European Commission. 2022. "Social and Emotional Learning for Mental Health and Well-Being | ESEP." school-education.ec.europa.eu, December 22, 2022. https://school-education.ec.europa.eu/en/insights/viewpoints/sel-mentalhealth-wellbeing.

InsureKidsNow. n.d. "Connecting Kids to Coverage National Campaign | InsureKidsNow.gov." www.insurekidsnow.gov, https://www.insurekidsnow.gov/campaign-information/index.html.

Kessler, Ronald C., Matthias Angermeyer, James C. Anthony, Ron DE Graaf, Koen Demyttenaere, Isabelle Gasquet, Giovanni DE Girolamo, et al. 2007. "Lifetime Prevalence and Age-of-Onset Distributions of Mental Disorders in the World Health Organization's World Mental Health Survey Initiative." *World Psychiatry: Official Journal of the World Psychiatric Association (WPA)* 6, no. 3 (October 1, 2007): 168–76. https://pubmed.ncbi.nlm.nih.gov/18188442/.

Krause, Shea. 2021. "The Intersection between Mental Health and Social-Emotional Learning." Reading Partners, June 1, 2021. https://readingpartners.org/blog/the-intersection-between-mental-health-and-social-emotional-learning/.

National Association of School Psychologists. 2021. "Comprehensive School-Based Mental and Behavioral Health Services and School Psychologists." National Association of School Psychologists (NASP). https://www.nasponline.org/resources-and-publications/resources-and-podcasts/mental-and-behavioral-health/additional-resources/comprehensive-school-based-mental-and-behavioral-health-services-and-school-psychologists.

National Institute of Mental Health. 2023. "Mental Illness." National Institute of Mental Health, https://www.nimh.nih.gov/health/statistics/mental-illness.

New York State Education Department. n.d. "Mental Health," https://www.nysed.gov/curriculum-instruction/mental-health.

Pilkey, Diane, Laura Skopec, Emily Gee, Kenneth Finegold, Kerent Amaya, and ASPE . 2013. "The Affordable Care Act and Adolescents." ASPE, July 31, https://aspe.hhs.gov/reports/affordable-care-act-adolescents-0.

Richter, Anne, My Sjunnestrand, Maria Romare Strandh, and Henna Hasson. 2022. "Implementing School-Based Mental Health Services: A Scoping Review of the Literature Summarizing the Factors That Affect Implementation." *International Journal of Environmental Research and Public Health* 19, no. 6 (March 15, 2022): 3489. https://doi.org/10.3390/ijerph19063489.

Rodgers, Caryn R.R., Michael William Flores, Obioesio Bassey, Jenna M. Augenblick, and Benjamin Lê Cook. 2021. "Racial/Ethnic Disparity Trends in Children's Mental Health Care Access and Expenditures from 2010 to 2017: Disparities Remain despite Sweeping Policy Reform." *Journal of the American Academy of Child & Adolescent Psychiatry*, October 2021. https://doi.org/10.1016/j.jaac.2021.09.420.

SAMHSA. 2023. "COVID-19 and Behavioral Health Disparities for Black and Latino Communities in the U.S." Substance Abuse and Mental Health Services Administration. Accessed July 14, 2023. https://www.samhsa.gov/sites/default/files/covid19-behavioral-health-disparities-black-latino-communities.pdf.

Schaeffer, Katherine. 2022. "Just over Half of U.S. Public Schools Offer Mental Health Assessments for Students; Fewer Offer Treatment." Pew Research Center, August 10, 2022. https://www.pewresearch.org/short-reads/2022/08/10/just-over-half-of-u-s-public-schools-offer-mental-health-assessments-for-students-fewer-offer-treatment/.

Shelemy, Lucas, Kate Harvey, and Polly Waite. 2019. "Supporting Students' Mental Health in Schools: What Do Teachers Want and Need?" *Emotional and Behavioural Difficulties* 24, no. 1 (January 2, 2019): 100–116. https://doi.org/10.1080/13632752.2019.1582742.

T4PA Center. n.d. "On Behalf of the U.S. Department of Education's (Department) Office of Safe and Supportive Schools, the Title IV, Part a Technical Assistance Center (T4PA Center) Provides State Education Agencies (SEAs) and Their State Coordinators (SCs) with Dedicated Support for Implementing the Title IV, Part a Student Support and Academic Enrichment (SSAE) Program. This Document Details Select Efforts by the T4PA Center during Its Base Year of Operations to Facilitate the Achievement of Program Goals. Key Approaches for Strengthening School Mental Health: A Primer & Resource Guide," n.d. https://t4pacenter.ed.gov/docs/T4PASMHResourceGuide3_508C.pdf.

U.S. Department of Education, ED. 2023. "U.S. Department of Education Announces More than $188 Million from the Bipartisan Safer Communities Act to Support Mental Health and Student Wellness | U.S. Department of Education." www.ed.gov, February 16, 2023. https://www.ed.gov/news/press-releases/us-department-education-announces-more-188-million-bipartisan-safer-communities-act-support-mental-health-and-student-wellness.

University of Michigan News. 2007. "Students with Symptoms of Mental Illness Often Don't Seek Help," July 30, 2007. https://news.umich.edu/students-with-symptoms-of-mental-illness-often-don-t-seek-help/.

Weare, Katherine, and Melanie Nind. 2011. "Validate User." academic.oup.com, December 1, 2011. https://academic.oup.com/heapro/article/26/suppl_1/i29/687644?login=false.

Whitley, Jessica. 2010. "The Role of Educational Leaders in Supporting the Mental Health of All Students." *Exceptionality Education International* 20, no. 2 (May 1, 2010). https://doi.org/10.5206/eei.v20i2.7663.

WHO. 2022a. "Mental Health." World Health Organization. World Health Organization, 2022. https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response.

WHO. 2022b. "Mental Disorders." World Health Organization, June 8, 2022. https://www.who.int/news-room/fact-sheets/detail/mental-disorders.

WHO. 2023. "Mental Health." World Health Organization, 2023. https://www.who.int/health-topics/mental-health#tab=tab_2.

Youth.gov. 2019. "School-Based Supports | Youth.gov," 2019. https://youth.gov/youth-topics/youth-mental-health/school-based.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310105

Multiple Discrimination in Employment Relationships

Dragoș Lucian Rădulescu

Lecturer, PhD, Petroleum Gas University of Ploiesti, Romania, dragosradulescu@hotmail.com

ABSTRACT: Discrimination in legal employment relationships involves the existence of differential treatment applied by the employer in violation of protected criteria established in the states' national legislation to restrain or eliminate the use or exercise of employees' rights. Discrimination involves the imposition of differentiation between employees, usually in comparable situations, and the application of identical treatment, even though they have different duties in the work process, with similar effects of excluding their rights. The article analyses multiple discrimination concerning the relevant European and national legislation, with reference to international and European regulations and relevant case law.

KEYWORDS: discrimination, multiple, rights, criteria, regulations

JEL Classification: K31

Introduction

"Discrimination is a frequently encountered issue in legal employment relationships, first identified at the level of the international community" (Marinescu 2019, 59- 68), which has led to the continuous evolution of regulations, particularly in terms of limiting measures and highlighting protected criteria. Specific regulations on equal treatment (Marinescu 2020, 490-494) in the labor market were initially imposed internationally (Popescu 2008, 340-341), European (Fuerea 2006, 26) and later at national level, and their evolution was related to case law. In this respect, multiple discrimination is characterized by the violation by the employer of several protected criteria, which leads to an amplification of the restriction of the employee's rights, and the role of the court in analyzing the unlawful conduct is established, proportionate to the exponential impact caused by the accumulation of these criteria. As a result, the employer can commit multiple discrimination by cumulatively failing to recognize different protected criteria found in non-discrimination legislation, such as religion, racial or ethnic origin, nationality, gender, etc., by applying differential treatment.

Cases of multiple discrimination in legal employment relationships imply unlawful conduct since the principles of economic freedom, the employer's right to property, or the subordination of the employee in the employment process do not exclude the employer's obligation to recognize the fundamental rights (Vartolomei 2016, 320) of employees.

We can appreciate the decisive role of the courts in protecting employees against multiple discrimination, all the more so since, at the European level, some countries have not defined this concept in their national legislation. In this respect, some national laws still protect the individual only against discrimination by the employer's violation of a single protected criterion. For example, in the United Kingdom, only exceptionally two criteria are accepted in the case of complaints of multiple discrimination.

As far as the Romanian legal system is concerned, it does not contain a definition of multiple discrimination, but it confers the character of an aggravating circumstance to the violation of two or more protected criteria, through the single conduct of the employer (Art. 2 para (6) of The Ordinance no. 137/2000 regarding the prevention and sanctioning of all discrimination forms: "Any distinction, exclusion, restriction or preference based on two or more of the criteria set out in paragraph 1 shall constitute an aggravating circumstance in establishing criminal liability if one or more of its components is not covered by criminal law").

Law No 202/2002 promotes the necessary measures to guarantee equal opportunities and treatment between women and men and regulates the case of multiple discrimination.

On the other hand, multiple discrimination can also be analyzed with reference to the recognition of group rights, as the group was previously subject to an accepted system of inequality and discrimination not only from others who did not belong to it, but also from within. In this respect, in the Roma community, women are discriminated against by other male members, so in employment relations, Roma women employees become victims of the conduct not only of the employer but also of the Roma male employees, implying unequal treatment on the basis of ethnicity and gender.

As a result, multiple discrimination may involve the cumulative violation of different protected criteria: ethnic origin and religion, ethnic origin and gender, ethnic origin and social status, and ethnic origin and language are commonly observed in employment relationships. On the other hand, the cumulative analysis of the criteria of nationality, religion and ethnicity, rather than a separate one, in the case of differential treatment of employees by an employer, is a matter for interpretation by the courts based on the existence of a definition of the concept of multiple discrimination.

The acknowledgment of multiple discrimination is also necessary in the context of the existence of disadvantaged minority groups (Muscalu 2015, 223), not integrated into the labor market, as a form of non-discrimination extended beyond that recognized only at the individual level, in the process of implementing policies against unequal treatment of a new kind. In this respect, the novelty lies in the fact that it acknowledges people who simultaneously possess characteristics that are assimilated to several protected criteria, in that an employee may be a woman, belong to a minority or minorities, and have a disability, etc., all of which together determine an increased risk of social marginalization.

It may be considered necessary to recognize this specific form of multiple discrimination, based on an aggravated form of guilt on the part of an employer, as a distinct form of discrimination, in order to apply sanctions which are real and proportionate to the harm caused to the victim.

The concept of multiple discrimination

The concept of multiple discrimination has been found in the US since 1980, introduced by researcher Kimberlé Crenshaw as an analysis of the interaction between race and gender, with reference to black women belonging to disadvantaged groups. Subsequently, the 2001 UN World Conference against Racism in Durban brought multiple discrimination to the attention of the international community.

In this respect, several forms of discrimination have been identified through the violation of several criteria. Thus, compound discrimination is a situation where a person is treated differently on the basis of two criteria, but one criterion is aggravated by a breach of the second, or intersectional discrimination (Australia through the Human Rights and Equal Opportunity Commission (HREOC) has had an approach based on the interlinking of criteria, as set out in rules derived from the Equal Opportunities Commission Act 1986, the Racial Discrimination Act 1975, the Sex Discrimination Act 1984 or the Disability Discrimination Act 1992), which is considered to be particularly valid in the USA, Canada or the United Kingdom, where several interacting criteria become almost inseparable and non-autonomous.

Multiple discrimination, on the other hand, implies an analysis of the criteria involved in absolute autonomy, usually evidenced by the interaction (Browne and Misra 2003, 487) of criteria of language, religion and culture with those relating to racial, ethnic or gender origin, where in practice a single thesis is used to address certain criteria such as race, religion or gender as naturally individual, emerging as a result of social movements. This recognizes (McCall 2005, 1771) the application of differential treatment by the employer, for example, based on

interacting criteria of language, religion, culture, racial origin, ethnicity and gender (Browne and Misra 2003, 487).

With reference to the employer's will, multiple discrimination may involve several forms, such as the employer's indirect intention when it promotes a female employee who has a disability, although it knew that the new position would involve business mobility duties, with the ulterior aim of having the position taken over by another male. We also consider the case of additive multiple discrimination, where the requirements for access to a job, if interpreted separately, do not become discriminatory, but cumulatively imply an impossibility to fulfil them. Conversely, it may also be the case where the violation of the protected criteria involves a degree of interaction that does not allow for separate analysis, as well as the case where only the criteria can be analyzed separately, leading to a more complicated interpretation of the cause of differential treatment.

On the other hand, the lack of conclusive definitions of the facts of multiple discrimination (Bahl v Law Society, 2004) leads to limits on the protection of employees' rights in the courts, and complaints based on a single protected criterion cannot always be held against the employer's conduct (Hannett 2003, 77).

It can be appreciated that, although multiple discrimination may have different ways of working, the effects of the employer's unlawful conduct are the same. For example, a female employee with a different sexual orientation may be discriminated against through sexual harassment, just as another employee who does not have the same orientation. Likewise, gay men can be discriminated against on the basis of race just like heterosexual men, and women of a certain ethnicity can be sexually harassed just like white lesbian or heterosexual women.

An interpretation of multiple discrimination also involves empirical studies, with the Joint Equality and Human Rights Forum (JEHRF) and the Advisory, Conciliation and Arbitration Service - ACAS (Hudson 2012) looking at intersectional identity and the effects on legal employment relationships.

The ACAS research on Multiple Discrimination, an independent public body in the UK, found that women are more likely to be discriminated against in access to employment, mainly on the cumulative grounds of age, sex, gender, race or disability (Solanke 2009, 732), with employers' conduct based mainly on negative stereotyping (Jones and Shorter-Gooden 2004).

Thus, the role of negative stereotypes in stimulating the onset of discriminatory behavior has been noted in the case of the African American Women's Voices Project, linked to the existence of sexism and racism in the United States. In this regard, evidence of the application of negative stereotypes is also highlighted in the American Bar Association's 1994 study (American Bar Association, Commission on Women in the Profession and Commission on Minority Opportunities in the Profession, "The Burdens of Both, the Privileges of neither Report on Intersectionality from the Task Force on Gender Equity, American Bar Association, 1994) on the role of African American women lawyers who were perceived as unfeminine and aggressive compared to male lawyers or white women lawyers, and who were subject to cumulative stereotypes based on ethnicity or gender.

In this regard, the Irish Human Rights Commission's analysis of multiple discrimination, with reference to race/gender, disability/sexual orientation (Brothers in Zappone (ed.) 2003, 54) and race/disability, considered that protection measures must go beyond traditional (Zappone 2003, 132) anti-discrimination policies. For example, it was found that women with disabilities are subject to a high degree of stigma in the workplace (Breslin in Zappone (ed.) 2003, 80), being preferred to unskilled work compared to male employees with the same degree of disability.

The issue of multiple discrimination was initially encountered most often in the case of women with disabilities who were exposed to violence, sexual harassment, and inequality of status, age, religion, belief or race. Basically, it questioned whether race, status, disability and sexual orientation were simply incidental to sex discrimination (Aylward 2008, 39).

Procedurally, with regard to multiple discrimination, combining several protected criteria, in terms of the motivation of a complaint based on discrimination, with a stronger emphasis on the criterion that would have been easier to prove, may make it easier for the potential victim to obtain a favorable solution.

International regulations. Relevant case law

The concept of multiple discrimination has been recognized at international level through the United Nations Convention (A normative act based on the principles of the United Nations Charter, on the Universal Declaration of Human Rights, in the sense of recognizing the rights and freedoms of individuals and combating all forms of discrimination) on the Rights of Persons with Disabilities (CRPD) of 3 May 2008 (The subject matter of the Convention relates to non-discrimination, equal opportunities and equality between men and women in the context of the application of Article 3(b), (e) and (g)), an issue related to women's rights and based on the existence of gender and age bias.

At the European level, multiple discrimination has previously been recognized in Directive 2000/43/EC (Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) and is linked to the principle of respect for human rights, fundamental freedoms and the rule of law. The Directive refers to legal employment relationships, relations between employees and employers regardless of the level of professional hierarchy or the public or private domain, containing mechanisms for imposing measures to eliminate inequalities between men and women, except for differences in treatment based on nationality or rules of entry and residence, access to the labor force and occupation, to eliminate inequalities and multiple discrimination.

The Commission Report (Report from the Commission to the European Parliament and the Council - Joint Report on the application of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Racial Equality Directive) and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Employment Equality Directive)) on the application of Directive 2000/43/EC and Directive 2000/78/EC concerning multiple discrimination refers to the specific situation of women as potential victims of this form of discrimination, indicating the possibility of cumulating several protected criteria.

In this respect, Directive 2000/78/EC (Directive of 27 November 2000 establishing a general framework for equal treatment in matters of employment and labor market) provides rules on forms of multiple discrimination, with indirect reference mainly to employment relationships involving women. The rules prohibiting discrimination on grounds of religion may also cover multiple discrimination, where racial or ethnic origin may overlap with religion and nationality as forms of indirect multiple discrimination.

In terms of case law on the subject, the case of Perera v. Civil Service Commission (Perera vs. Civil Service Commission [1983] IRLR 166, analyzed in Equality and Diversity Forum, *"Memorandum submitted by the Equality and Diversity Forum (E 09)",* June 2009) (1983) dealt with discrimination on the grounds of nationality, age and language with the prevention of freedom of access to the legal employment relationship, involving access progressively limited (Moon 2006, 89) by each criterion. The case was based on the applicant's lack of access to posts in the UK civil service, where he was successively rejected on the grounds of his color or national origin, age and language, i.e. his command of English, with recognition of a form of indirect multiple discrimination.

Prior to 2004, multiple discrimination was considered in the cases of Nwoke v Government Legal Service (IT/43021/94) and Mackie v G & N Car Sales n/a Britannia Motor Co (ET no 1806128/03) concerning direct multiple discrimination on grounds of gender and

race, Ali v. North East Centre for Diversity & Racial Equality & Bux (ET case no 2504529/03), concerning indirect multiple discrimination on grounds of gender and race, Acharee v. Chubb Guarding Services t/a Chubb Security Personnel (ET [2000] DCLD 43), involving harassment on grounds of race and sex, and Bhal v. Law Society - 2004.

After 2004, the cases of Bloomfield v Hampshire Police Force - 2006, dealing with indirect multiple discrimination on grounds of gender and sexual orientation, Azmi v Kirklees Metropolitan Borough Council (IRLR 484) - 2007 and Noah v Desrosiers t/a Wedge (ET2201867/2007) - 2007, dealing with indirect multiple discrimination on grounds of gender and religion were considered. In practice, multiple discrimination is based on a composite issue, consisting of the violation of different criteria, which must be analyzed simultaneously (Yuval-Davies 2006, 197) and provided for in equal treatment legislation (Monaghan 2013, para. 5.12).

We believe that non-discrimination regulations must also involve the relationship between discrimination and society (Phillips 2010, 49) in terms of the potential disadvantages created in the labor market by permanent political competition (Butler 2011, 168), without the introduction of positive measures to protect disadvantaged minority groups leading to the emergence of new forms of discrimination against the majority (Fredman 2005, 14).

Conclusions

As far as multiple discrimination is concerned, this form represents an interaction of several protected criteria, which leads to the need for a unitary definition of the concept, which also has objectives linked to the political sphere, in order to promote equality and social inclusion.

It thus becomes clear that enforcing non-discrimination measures is mainly of interest to the labor market, as accepting inequality primarily means marginalizing employees from minority groups and reducing overall productivity. In the same sense, non-discrimination also relates to the development of globalization, leading to the resolution of demographic problems, the elimination of labor differences between countries and the acceptance of multiculturalism, the conceptualization of race, ethnicity or religion.

Non-discrimination allows people from groups considered disadvantaged, mainly women and migrants, to be integrated into employment relationships, the concept of diversity implying the willingness of employers to recruit employees from this category. However, multiple discrimination requires clarifications, including sociological ones, on the underlying hypotheses of the phenomenon and the intertwining of the protected criteria, as well as on the stereotypes linked to immigration and the ethnic groups on which it is based, with an analysis of the inequalities in the case of people considered vulnerable.

As a result, recognizing group rights, oppressions, and socioeconomic status inequalities would make it easier to analyze multiple discrimination, as national statistics of the states do not contain conclusive data on the cases of cumulation of the protected criteria, which may lead potential victims to refrain from filing complaints. In this respect, the proof of multiple discrimination will require the interpretation of issues related to historical, social and political disadvantages especially of groups considered disadvantaged and vulnerable, in a context where human rights do not allow for a full protection regime.

References

Aylward, C. A. 2008. "Intersectionality: Crossing the Theoretical and Praxis Divide." *Journal of Critical Race Theory* 1(1): 1-48.

Breslin, N. 2003. "Situation, Experience and Identity of Disabled Women in Northern Ireland." In Zappone, K. (ed.), *Rethinking identity: the challenge of diversity*, JEHRF.

Brothers, M. 2003. "It's Not Just About Ramps and Braille: Disability and Sexual Orientation." In Zappone, K. (ed.), *Rethinking identity: the challenge of diversity*, JEHRF.

Browne, I., and J. Misra. 2003. "The Intersection of Gender and Race in the Labor Market." *Annual Review of Sociology* 29: 487-513. https://www.annualreviews.org/doi/abs/10.1146/annurev.soc.29.010202.100016.

Butler, J. 2011. *Bodies That Matter: On the Discursive Limits of Sex*. Taylor & Francis, Routledge.
Fredman, S. 2005. "Double Trouble: Multiple discrimination and EU Law." In *European Anti-Discrimination Law Review,* Vol. 2.
Fuerea A. 2006. *Drept comunitar al afacerilor.* Bucharest: Universul Juridic Publishing House.
Hannett, S. 2003. "Equality at the intersections: the legislative and judicial failure to tackle multiple discrimination." *Oxford Journal of Legal Studies* 23(1): 65-86.
Hudson, M. 2012. "The experience of discrimination on multiple grounds." *ACAS Research Paper* 01/12: 2012, http://www.acas.org.uk/media/pdf/0/3/0112_Multidiscrim_Hudson-accessible-version-Apr-2012.pdf.
Jones, C., and K. Shorter-Gooden. 2004. *Shifting: The Double Lives of African American Women: Based on the African-American Women's Voices.* Project, Harper Perennial.
Marinescu, D-M. 2019. "The Discrimination - A Risk Factor for Social Security in the European Union." In *Proceedings of The 15th International Scientific Conference Strategies XXI. "Strategic Changes in Security and International Relations."* Volume XV, Part 1, pp. 59- 68, Bucharest, April 11-12, "Carol I" National Defense University, Security and Defense Faculty.
Marinescu, D-M. 2020. "The Evolution of The Concepts of Equal Opportunities and Migration in The Legislation of The European Union." In *Proceeding of the Scientific International Conference "Global Security and National Defense,"* pp. 490-494, "Carol I" National Defense University, Doctoral School, June 25-26.
McCall, L. 2005. "The complexity of intersectionality." In *Signs: Journal of Women in Culture and Society* 30(3): 1771-1800.
Monaghan, K. 2013. *Monaghan on Equality Law*. Oxford University Press, para. 5.12.
Moon, G. 2006. "Multiple discrimination – problems compounded or solutions found?" In *Justice Journal*, Vol. 3.
Muscalu, M.L. 2015. *Discriminarea în relațiile de muncă*. Bucharest: Hamangiu Publishing House.
Phillips, A. 2010. "What's wrong with essentialism?" In *Distinktion: Scandinavian journal of social theory* 11 (1): 47-60. DOI: 10.1080/1600910X.2010.9672755.
Popescu, A. 2008. *Dreptul internațional și European al muncii,* Second Edition. Bucharest: C.H. Beck Publishing House.
Solanke, I. 2009. "Putting Race and Gender Together: A New Approach to Intersectionality." *Modern Law Review* 72(5): 723-749.
Vartolomei, B. 2016. *Dreptul muncii. Curs universitar.* Bucharest: Universul Juridic Publishing House.
Yuval-Davies, N. 2006. "Intersectionality and Feminist Politics." *European Journal of Women's Studies* 13(3): 193-209.
Zappone, K. 2003. *Rethinking identity: the challenge of diversity*. Joint Equality and Human Rights Forum. (JEHRF).

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310108

The Challenge of Adapting the Way of Teaching Romanian as a Foreign Language to the New Generations' Learning Styles

Veronica Cristina Nedelcu[1], Laura Elena Pascale[2]

[1]*Associate Professor, PhD, Ovidius University, Constanța, Romania, vero_4rom@yahoo.com*
[2]*Lecturer PhD, Ovidius University, Constanța, Romania, laura_71ro@yahoo.com*

ABSTRACT: The development of the Common European Framework of Reference for Languages determined the creation of a general system for the assessment of language skills in the teaching and assessment process of a native or non-native language, which blurred the linguistic and cultural features of the language in the process of language acquisition. Thus, in language teaching, one could observe some general trends, at the European level, such as: highlighting the relation between the culture and civilization that is being studied to one's own national culture, but also to other known cultures; the diversification of academic strategies by combining traditional and modern methods; diversifying the forms of assessment of foreign language learning through complementary methods; the use of new information and communication technologies in the process of teaching - learning - assessment focusing on the needs, interests, capabilities and skills of the learner.

KEYWORDS: teaching, gen Z, millennials, language, linguistics, academic

The article at hand explores this new learning context, in which the entire educational system should be adapted to the needs and requirements of a generation of young people who will face the economic and social challenges of an era filled with digital technology and artificial intelligence. The art of teaching Romanian as a foreign language belongs to the field of modern linguistics intended for non-native speakers. The theoretical elements from which we started our approach were provided by the Common European Framework of Reference for Languages, most recognizably socio-educational studies regarding the changing generations in the education system by the new academics of the Romanian language and literature (Sâmihăean 2014) in the field of RLS.

The activity of an educator always invokes an interaction between two generations: that of the educator and that of the educated, the purpose of learning being twofold. Teachers happen onto many challenges, such as teaching a generation of digital natives, combining traditional teaching-learning-assessment strategies with those of modern language academics, which are based on the training and development of language skills, from A1 level (beginner) to level C2 (professional), according to CECRL (2003).

Generational changes have prompted researchers from various fields, especially those in the field of sociology. Howe and Strauss did an extensive analysis of the generational changes that occur every 20 years as each generation reaches adulthood. The recent generational changes and, promptly speaking, differences have attracted the attention of many researchers in a variety of fields, most importantly in that of sociology. Howe and Strauss did an extensive analysis of the generational changes that occur every 20 years as each generation reaches adulthood, study that can find paramount in understanding the subject. Howe N. & Strauss have coined the term "Millennial Generation" in 1991 while also furthering the academic knowledge in the generational differences field.

Generation Y or "Millennials" (1980-1996) has become the subject of many specialized studies, which start from the characteristics attributed to them. Sociology studies established a personality profile for them: sociable, irresponsible, narcissistic, inattentive to rules and processes, they get bored quickly and have constant need for stimulation and variety. In

addition, we must take into account the fact that they are unstable and emotionally fragile, being called by Claire Fox the "Snowflake Generation" (Millennials@ Work 2016) .

Generation Z (1997-2012) is considered a digitally native generation because they use social media platforms very well and live in a virtually connected world. Scientific research has shown that there are changes in the brain, being structured differently to respond to the new reality. The main challenge in today's academic filed is to make the transition from traditional teaching-learning-evaluation strategies to other teaching methods that can stimulate the interest, imagination and creativity of this generation.

The phrases "Digital Natives" and "Digital Immigrants" belong to Prensky, when in 2001, at a conference, he argued that teachers (digital immigrants) must strive to find new teaching strategies to adapt to the demands of learning of digital natives (Prensky 2001). If in 2001, he believed that educators should change and accept the challenge of new technologies, in 2009, he qualifies his position and says that their role is to show "digital savvy". A mutually beneficial partnership between the teaching staff and the student is mandatory in order to more efficiently achieve the process of language acquisition. Traditional teaching methods have been dethroned in favor of a whole new array of approaches all centered around active learning using many instruments such as project based learning (Prensky 2001, 1-11).

Generation Z, called by Tapscott (2008) the "Net Generation", share values such as: freedom and integrity, which drives collaboration and speed of reaction, being accustomed to rapid changes, which makes digital natives constantly expect to innovations, the desire to choose the right way of life or work. At the same time, they are familiar with multiple choices, leading to detailed investigations in selecting information. Also, any work must involve a fun and interactive side. The author of the study finds, however, that these young people have better visual acuity and spatial orientation, but poorer memory and lower ability to focus attention.

An important name comes to mind when arguing about how the digital era has impacted the teaching sphere of influence. Bennet et al. (2008) invokes in his studies that most young pupils have access to new technology. However, according to him, they only use such instruments for video-editing, e-mailing and other recreational purposes, notwithstanding the fact that they could be used for far more intellectually profitable activities. The teacher, since its' genesis, has become more to the student than a mere information database. A teacher can be a mentor, a pseudo-parent, a guide through the world’s infinite crossroads. Perhaps now is the time when the teacher should take upon itself the duty of training his pupils on how to use our era's digital vastness in order to profit their academic development without hindering themselves to useless information and recreational activities.

Lately, native or non-native language didactic studies lead a unitary linguistic policy, coherent at the European level. Efforts have been made to provide a scientific basis for this field of research. Modern perspectives on knowledge and the impact with new media technologies have also had consequences on the aims and contents of teaching-learning-assessment of LRS. The purpose of this discipline coincides with the global aims of education, which has a personal role (to develop individual talents and sensitivities), a cultural role (to understand the world in which one develops) and an economic role (to form the skills necessary for winning existence) (Robinson 2011). Specialized studies in the field of educational policies generally refer to several models (Rotaru 2021a, 87-92), which we will mention below.

In the Report for UNESCO, 1996, Delors proposes "the model of the 4 pillars of education": learning to know, learning to do, learning to live together, learning to be. In 2001, this model was added to the one proposed by the Common European Framework of Reference for Languages (CEFRL), which aims at four areas of knowledge competence, skills, existential competence, and ability to learn.

In 2010, Prenski would develop another model, according to the principles expressed in his studies, through which he emphasized the need to adapt to the needs of the 21st century generation, which must develop a series of metacognitive skills, essential for the century in which we live. He draws attention to the fact that the new generations live in a different horizon and at a different pace, which education should take into account (digital natives vs digital immigrants).

The goal is to be able to follow your passions as much as your own abilities allow. For the 21st century, it mentions the following essential meta-skills: critical thinking, planned action, interactive collaboration using technology and artificial intelligence, creative and long-term thinking, prudent risk-taking, and continuous improvement through study.

The three models do not differ much from each other and are in line with the language policies of the Council of Europe – the development of plurilingualism, through the formation of communication skills in a coherent framework, where students can capitalize on all linguistic and cultural experiences (Sâmihăian 2014, 26).

The current trends in learning a native or non-native language are to find integrative models that rely on the development of communication and cultural skills. The Common European Framework of Reference for Languages (2001) defines this discipline, describes the practices of language teaching, learning, assessment, establishing a common basis for assessment. The paradigm of studying Romanian as a foreign language is communicative-utilitarian (see Ongstad et al. 2004) because it defines communication as the transmission of messages, and its purpose is to prepare the student for a certain career and for permanent education ("learning to learn"). It has become an indispensable tool for teachers who create textbooks, various teaching materials or assessment tests or who want to organize and plan curriculum activity.

One of the main challenges in learning Romanian as a foreign language is adapting to the individual needs of students. Each student has his own learning style, preferences and interests, and the teaching of the Romanian language must take into account all these aspects. It is also important to provide a variety of teaching resources and materials, such as textbooks, online exercises or mobile apps, so that they can choose the learning method that suits them best. In addition, the development of digital technology and new communication media has created new opportunities in language teaching. For example, the use of online platforms and mobile applications can improve the accessibility and interactivity of learning the Romanian language. Also, machine translation tools can be useful to facilitate the process of learning Romanian vocabulary and grammar, but students are not encouraged to rely on them or abuse them. Technology can also be a valuable tool in building receptive skills for today's youth. For example, students can be encouraged to use language learning apps, participate in webinars or listen to podcasts in Romanian. These resources can provide additional opportunities for practice and exposure to the language. Its use leads to: maintaining interest through varied and short-term activities, using modern communication techniques, games, images and even activities outside the classroom space; avoiding overloading with new elements; offering easy-to-understand language elements, along with supporting audio and video materials: images, objects, songs, gestures, mimicry); creating a friendly and relaxing learning environment (Platon, Burlacu, and Sonea 2011, 33).

Modern didactics try to bring some changes in terms of objectives and teaching methods. The main objective is to get students to maintain their motivation throughout the learning process. The teacher must resort to active methods, always find attractive topics that arouse the interest of the students; it is he who gives students suggestions, teaches them to notice certain details, construct statements, organize them, urges them to be creative, to use all their previously learned knowledge and put it into application. He must discover their potential and encourage them to prepare them for communication (oral and written) in Romanian, for various academic purposes or for personal use (Rotaru 2021b, 190-196). One

of the modern perspectives, adapted to the new generations, is the communicative one of teaching the Romanian language as a foreign language, which requires a contextualized learning of language facts, because the purpose of learning is to understand and produce an oral and/or written message. The teacher must know how to combine theory with practice, considering the fact that the student will be able to correctly use all the notions acquired in the Romanian language courses. In this context, teachers, most of whom are "Digital Immigrants", are forced to constantly adapt to the challenges of contemporary society. The success of the process of teaching, learning and evaluating the Romanian language as a foreign language will largely depend on the effective implementation of modern learning strategies and methods, through technology and digital resources, which are an integral part of the lives of new generations.

References

Bennett, Sue, Karl Maton, and Lisa Kervin. 2008. „The Digital Natives' Debate: A Critical Review of the Evidence." *British Journal of Educational Technology* 39(5): 775-786.

CECRL. 2003. Cadrul European Comun de Referință pentru Limbi: predare, învățare, evaluare (Common European framework of reference for languages: teaching, learning, assessment) – CECRL. Strasbourg: Linguistics Politic Division.

Ceobanu, Ciprian, Constantin Cucoș, Olimpius Istrate, Ion-Ovidiu Pânișoară (Eds). 2020. *Educația digitală (Digital education)*. Iași: Editura Polirom.

Delors, Jacques (Ed.). 2000. Comoara lăuntrică, Raportul către UNESCO al Comisiei Internaționale pentru Educație în secolul XXI (A Soul's Treasure' Report to UNESCO from the International Education Comission in the 21st century). Iași: Polirom Publishing House.

Millenials @ Work. 2016. Psihologia generației digitale din România. Raport de cercetare realizat de Facultatea de Management din cadrul SNSPA București în colaborare cu HART Consulting (The psychology of the digital generation in Romania. Research report realized by University of Management SNSPA Bucharesturesti in collaboration with HART Consulting).

Nedelcu, Veronica and Laura Pascale. 2021. "Language Policies for Promoting Romanian in Europe." In *ConScienS Conference Proceedings*, pp.102-105.

Ongstad, Sigmund, Piet-Hein Van de Ven, and Irina Buchberger. 2004. *Mother Tongue Didaktik. An international study book.* Linz: Universitatsverlang Rudolf Trauner.

Platon, Elena, Diana Viorela Burlacu, and Ioana Silvia Sonea (Eds.). 2011. Procesul de predare-învățare a limbii române ca limbă nematernă (RLNM) la ciclul primar (P1) (The process of teaching-learning of the romanian languege as a native tongue in primary education). Cluj-Napoca: Casa Cărții de Știință Publishing House.

Prensky, Marc. 2001. „Digital Natives, Digital Immigrants." *On the Horizon*, vol. 9, no. 5, October: MCB University Press.

Prensky, Marc. 2005. Teaching Digital Natives: Partnering for Real Learning. https://marcprensky.com/wp-content/uploads/2013/04/Prensky-TEACHING_DIGITAL_NATIVES-Introduction1.pdf.

Robinson, Ken. 2011. *O lume ieșită din minți. Revoluția creativă a educației (Out of Our Minds)* translated from english Brăgaru, Doina – Mihaela. Bucharest: Publica Publishing House.

Rotaru, Ioan-Gheorghe. 2021a. "Current Values of Education and Culture." In *Proceedings of the 24th International RAIS Conference on Social Sciences and Humanities*. Princeton, NJ, United States of America.

Rotaru,Ioan-Gheorghe.2021b. "Valences of Education." In *Proceedings of the 24th International RAIS Conference on Social Sciences and Humanities*. Princeton, NJ, United States of America.

Sâmihăian, Florentina. 2014. O didactică a limbii și literaturii române: provocări actuale pentru profesor și elev (A method of teaching romanian language and literature: challenges of actuality for the student and teacher). Bucharest: Art Publishing House.

Tapscott, Don. 2008. Growing Up Digital. How the Net Generation is Changing Your World. New York: Publisher McGraw Hill.

Venn, Wim, and Ben Vrakking. 2011. *Homo zappiens. Joc și învățare în epoca digitală (Homo zappiens. Game and learning in the digital era)*, translated from english by Daria Dobre and Andreass Boruga. Bucharest: Sigma Publishing House.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310114

The True Nature behind the Implementation of the Extraterritorial Application of Antitrust Laws in Cartelization Control Policy

Selima Ben Maouia Ben Slama

PhD Student, University of Legal, Political and Social Sciences of Tunis, Tunisia
selimabenmaouia@gmail.com

ABSTRACT: The US Supreme Court was instrumental in developing a consistent body of case law on export cartels, which has greatly influenced the antitrust landscape of today. Several states have approved the extraterritorial application of US antitrust laws, although it has run across a lot of opposition. The unstable state of emerging nations is a serious problem since many of them lack the ability to structure their economies and safeguard their citizens. A wave of competition laws have been adopted as a result of the passage of competition laws, luring in international money and investors and fostering economic integration. Extraterritorialism may raise expenses rather than considerably lower them, though. Additionally, it undermines nations' confidence in their own judicial system. Another big issue with antitrust laws is obtaining the necessary evidence. In nations with a common law background, like the US, the discovery process is essential for conclusively proving evidence. To promote international cooperation and uphold a respectful view of other nations' sovereignty, the US has developed a number of conventions and accords. However, because nations are envious of their knowledge, these accords frequently have little teeth. Each nation must secure and safeguard information security in order to maintain the reputation of its businesses.

KEYWORDS: antitrust law, extraterritoriality, cartelization control, developing countries

1. Introduction

The US Supreme Court helped shaping the modern “antitrust-scape” as known today. The evolution of case law was not always that easy. However, Justices managed to build up a coherent interpretation throughout the years even though the Congress did not make it easy for them. The ambiguous formulation and the numerous amendments resulted in a hypertrophy of rules that can be sometimes misleading. But with some firm principles and a standing look at what happens around in the world, the Supreme Court ended up by establishing a consistent case law. As Export Cartels are very toxic wherever they are, it is rather understandable to adhere to the extraterritoriality Doctrine. No matter where they are, if a cartel intends and finishes by affecting US commerce in a way or another, there is no chance for it to escape the American antitrust law reach. In this optic, it is rather an efficient tool for combating such lesion. But, the first part of this work was finished with a glance at other states’ positions toward such “outdoor competence” of US laws. This explains this use of the term “transcending”. It means going beyond borders of the expected. As it primarily seemed, extraterritorial application of US antitrust laws in the war against export consortia has so many benefits that it has been accepted in multiple States. However, it has not been that widely accepted giving countless objections.

2. The precarious situation of developing countries

Not every country in the world has a competition law system. Many still lack the capacity or intent to organize their economies and protect their businesses and consumers. “Many countries have now adopted American-style competition policy, or its close European cousin, at least partly because there are few other models.” For all these, the extraterritorial application of American antitrust law is a reality that they have to deal with. For some, it is a necessary evil and no way out

is in perspective. As for some others, it is heavily costly. Competition policy was not of great importance in developing countries. They had their own priorities to manage at the time Western Countries perfected their own antitrust systems. By the 1990s, a sudden boom among developing countries took place to implement competition laws. This was urged by a set of agreements with western countries and institutions, where competition policy is a condition to the implementation of those trade deals. Agreements aiming at creating free trade zones or even as part of a whole structural program presented the package quite wisely. They advocated attraction of foreign capitals and investors, they stressed on the integration in global economy. And for all this to happen, a simple prerequisite was to be satisfied: Competition Laws. For that, protectionist policies had to be abandoned and put behind. And a wave of competition laws adoption swamped the bottom half of the Globe. New economies were somehow born. They already started dangling their inclusion in the new era of international trade, where foreign direct investments are the future and membership in regional and international trade agreements is a must (talking about OECD and WTO agreements).

3. The problem of duplicative costs of US trading partner

National antitrust regulation genuinely induces certain costs. Some are common to all the antitrust regimes, such as the establishment fees which may just vary from high to low amounts according to each state policy. Other costs are however exclusive, and could not been incurred under a homogeneous international system. In this context, every multinational company has to be in order with the national law of each State it does business in and/or with. Nevertheless, this alignment with the numerous systems has a price.

To that, Extraterritorialism is not of great help. It does not do much in cutting down the costs. In fact, it may increase them. If a certain company aligns to State A's several perquisites to do business, it is not protected from the reach of State B. So, the greater the number of States applying their competition laws extraterritorially, the more burdensome will get the process of alignment.

In addition, it will jeopardize the nationals' faith in their own legal system. Can't they protect them enough from this intrusive extraterritorial reach? Calculus methods are never the same from one country to another. To highlight this difference, a step back from the American system is needed to assimilate the international antitrust scape. In 2007, the Gas Insulated Switchgear (GIS) case was decided by the European Commission. Eleven companies formed a cartel in the gas industry export to the European Union. Ten of them have been convicted of fines. Five among them were Japanese companies. Even if it was demonstrated during the trial that the Japanese companies did not enter in any way the European market, they were nevertheless massively fined. According to the European legislation, a guilty company of cartelization can be fined up to 10% of the total sales of its last year of business immediately before the violation occurred. Such surcharge under Japanese law does not exist because it is measured by multiplying a certain ratio by the sales directly connected to the cartel, and as they had no business in the European market, there would be no surcharge fines under Japanese law. Back to reality, the fines amounted to 750 million euro that could have dramatically lessened if the different national systems matched.

4. The evidence gathering obstacle

The procedure of Discovery is of great importance in Common Law tradition countries, especially in the United States. And in matters of antitrust, in this study the anti-cartel policy specifically, it is rather important to have access to different documents to establish the proofs with certainty. In the case of export cartels, documents of the agreement, if existing, besides the registers of

business, are generally located outside of the US territory. In this case, the fishing trip for evidence can be rather long, facing different nationalities and countries' codes and procedures.

It is true that American discovery procedures are a little unusual. They are permitted so as to be conducted by private parties for pre-trials, whereas in civil law tradition countries and even in other common law countries they have to be directed by the prosecution.

In order to facilitate this procedure, the United States has elaborated multiple conventions and agreements for the sake of international cooperation and to keep the image of a State respectful of others' sovereignty. From back to the 1980s and 1990s, the US along with Canada has strengthened their mutual collaborative relationship in cartel enforcement. Brazil, Chile, Colombia and Mexico also have entered bilateral agreements with the US on the matter. However, only Brazil keeps track of its enforcement efforts. The United States is party to the Inter-American Convention on Mutual Legal Assistance, which has been ratified by 13 additional American states. It has also signed bilateral mutual legal assistance treaties (MLATs). That is true that they are numerous, still all these treaties are however toothless. All the countries are jealous of their information. This over protection is generally spoken in terms of sovereignty protection. Yet, it is not limitative. Information protection is primordial to each country to assure its companies' reputation and preserve it during the trial. Besides, certain business documents such as records and strategies are classified and should not be communicated to competitors.

In the EU, Discovery procedures are often eluded by the law for the protection of personal data. Combining Article 8 of the Charter of Fundamental Rights of the EU and Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms results in a rather universal protection of personal data. In 2009, the CNIL recalled for the provisions concerning personal information protection and underlined the possibility and the right of opposition to information disclosure by the concerned persons in respect proportionality of data processing outside of the European Union.

To keep the Americans out of their business, some countries are willing to do anything to prevent the discovery procedure. Preaching the sovereignty principle, they elaborated what called "Blocking Statutes" to prevent data is sharing with the American Courts. The statutes were primarily designed to inhibit extraterritorial jurisdiction. But they are also waved a shield against information gathering. This is the case of Société Internationale v. Roger in 1958. The Supreme Court recognized then that the Swiss company could not be forced to disclose and share the banking records of the company because it would be illegal under the Swiss Laws. Ever since, many States have elaborated a foreign sovereign compulsion defense against American procedures. Many of these States are among the closest trading partners. The list includes the United Kingdom, New Zealand, Canada, Norway, Sweden, Australia, Belgium, Canada, Denmark, Germany, Italy, the Netherlands and Japan. But not only! For example, in France, the purpose of the 1980 Act is to prevent the communication of information which may be of strategic importance for the undertaking victim in the procedure, and especially the interest of the State.

5. The problem of Judgments enforcement

Even where the information and proof collection turns out to be a difficult task, suits are still brought up and judged. Effectiveness of the antitrust system is measured by its capacity to be enforced either at home or abroad. In this study, the American law battery deployed against international cartels is analyzed. In this final paragraph the enforcement issues facing American judgments abroad are approached. Such enforcement is conditioned by the existence of regional or bilateral agreements on the topic. However, generally States will refuse to enforce foreign judgments on their territory. As antitrust matters are very sensitive, many reasons explain states refraining from enforcing the American judgments.

Foreign states will refuse to implement any judgment tinted with American public law, because in doing any other way, they would recognize the American extraterritorial competition and accept its reach to their own territory.

Secondly, by enforcing an American judgment abroad, there is always the fear of implementing contradictory disposition to the national law of the enforcement jurisdiction. For this purpose, all the states generally tend to block such enforcement.

Another opposition is waved in the face of American judgments enforcement in fear of procedural irregularities. Numerous reserves expressed by many states towards the discovery procedures carried out by the United States were expressed, they are opposing such principle and tend to block it by any means. Following this logic, if they issue a blocking statute against sharing any of this information and that the USA succeeds to obtain it, then there is somehow an irregularity in the procedures. Thus, the whole judgment is unfounded and unqualified neither for recognition nor for implementation.

Another serious problem arises under this title. It is about individuals' extradition. Away from bilateral agreements on the matter, there is no other way for the US to enforce their judgments. And the DOJ affirmed many times the difficulties he faces in extraditing foreigners for antitrust claims. The famous case of Romano Pisciotti is the first case on the matter. It was described by the DOJ as "the first ever extradition on antitrust charge". It was about an Italian man who entered a conspiracy to fix the price of marine hose used in the transfer of oil between tanks. The cartel affected the prices all over the world and resulted in huge losses. At first, and for lack of extradition agreement between the USA and Italy, it was impossible for the DOJ to neutralize the individual. It was only three years later thanks to an Interpol red notice that the individual was arrested in Germany and was extradited to Florida, USA to pursue his trial. It is rather difficult to extradite a person solely on antitrust charges. The DOJ failed before Romano Piscotti with an English man, Ian Norris. They managed to extradite him from the UK for obstruction to the justice rather than price fixing, of which he was ultimately found guilty. However, the DOJ still fails to extradite even after Romano Piscotti. For what the case presents of abnormalities and specific events, it could not constitute a solid precedent for antitrust extraditions. For that, the American government needs to negotiate the classic way the extradition terms, if it occurs to happen. Then, securing it would take forever in terms of money and time for the requesting country.

6. Conclusions

The extraterritorial reach of antitrust laws has been more than severely criticized. However, it is important to step back and evaluate the Doctrine in its context. Antitrust laws were primarily and essentially designed to protect the consumers and the commerce against any illegal restraints that would affect them. Consequently, no matter where the harm happens, as long as it affects American consumers and American commerce, it needs to be stopped and repaired. That is rather comforting to know such activities will be taken care of all over the globe.

This outreach of the US antitrust laws is consolidated with the private claim procedure. Knowing that competitiveness can be aggressively high between big companies, small businesses or even individuals can be roughly intimidated and would never seek justice. Even if they decide to do so, they would probably suffocate under the pressure and the heavy fees. To address this concern, the American legislator facilitated the access to courts for the private individuals by approximating the laws and regulations, bringing closer the competent fora and by lightening the fees. Yet, not all countries welcome such Extraterritorialism, and see this welcoming US forum as a threat to their sovereignty and their own judicial system. Most of the States issuing waivers to this extraterritoriality are developing countries. With generally poor natural resources, they try to compensate with rigorous legal systems to protect their nationals. However, under the umbrella of the reform oriented policies, the leading nations

tend to impose their own rules by simply dictating if not duplicating their own legal systems in these developing institutions. For this reason, many countries have issued Statutes of limitations. Not only the developing ones, but also US ever trading partners such as Canada. This type of statutes operates as brakes to the outgoing mettle of the United States in terms of antitrust, consequently, we can anticipate a reduction in the intrusive discovery procedures. Furthermore, the enforcement of American judgments is likely to experience extended timelines, and as for individual extraditions, it is still not for tomorrow!

References

Former Marine Hose Executive Extradited from Germany to Face Charges of Participating in Worldwide Bid-Rigging Conspiracy, Press Release, Friday, April 4, 2014, Department of Justice, Office of Public Affairs, Stable URL: https://www.justice.gov/ .

Objections to Extraterritorialism have been forcibly expressed by developing states: UN Conference on Trade and Development ('UNCTAD'), Communication from the Group of 77 and China regarding the Application of Coercive Economic Measures and Unilateral Sanctions against Developing Countries, UNCTAD Doc TD/411, 6 August 2004.

Official Journal of the European Union, 10.1.2008, C 5/7, Summary for publication of Commission Decision of 24 January 2007 relating to a proceeding under Article 81 of the Treaty establishing the European Community and Article 53 of the EEA Agreement, Case COMP/38.899 — Gas Insulated Switchgear, Stable URL: http://www.eur-lex.europa.eu/.

Owen, Bruce M. 2003. "Imported Antitrust." Book review of "Competition Policy for Small Market Economies" by Michal S. Gal, Cambridge: Harvard University Press, 2003, pp 336, p1.

UNCTAD. 2004. Report of the United Nations Conference Trade and Development on Its Eleventh Session, UNCTAD Doc TD/412, 20 August 2004, n°39.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310119

Evidentialist Paradigm

Sergiu Ghica

PhD(c), Doctoral School of Theology and Religious Studies, University of Bucharest, Romania
sergiughica@yahoo.com

ABSTRACT: This paper explores the foundations of evidentialist apologetics, the principles of the evidentialist method for defending the Christian faith, the leading representatives of this method and the basic themes addressed. It examines how evidentialists interpret the importance of historical documents, prophecies, and empirical evidence in presenting the authenticity of Christianity. Moreover, it analyzes the systems of thought of some of the most influential contemporary apologists namely John Montgomery and Josh MacDowell.

KEYWORDS: apologetics, Christian faith, argumentation, evidence, evidentialist system

1. Introduction

In the modern period, American evangelical apologetics has been dominated by the evidentialist approach. This approach focuses on presenting Christianity as based on indisputable historical facts, that are verifiable by examination of the evidence. This type of apologetic system, while recognizing that the indisputable and absolutely certain proof of Christianity lies beyond man, defends the truth claims of the faith as eminently reasonable. Specifically, evidentialist apologetics holds that these crucial truths are provable and trustworthy.

Different from classical apologetics, which defends the Christian faith in two stages (first by defending theism, then by defending claims specific to Christianity), evidentialism uses multiple lines of evidence (Meister and Swies 2012, 697) to support Christian theism as a whole.

2. Principles of the method

Evidentialist apologetics can be seen, from a certain perspective, as a subtype of classical apologetics. Both approaches seek to provide sufficient reasons, which are accessible to non-Christians, to accept Christianity. However, the evidentialist approach, which has gradually emerged over the last two centuries, has emerged as a significantly different model of apologetics. The impetus for the development of evidentialist apologetics was the rise of deism. In the early eighteenth century, modern science seemed increasingly to explain the natural world, and the Christian worldview seemed to have less and less sway over scientists. Copernicus, Galileo, Kepler, Newton, these giants of science, had completely changed the way modern people looked at the physical world. The enormous success of science encouraged many to believe that, eventually, everything could be explained naturalistically, thus eliminating the need to appeal to the existence of a supernatural Creator (Cowan 2000, 64). Deism was then a kind of way-station on the road leading to atheism: deists did not deny that God created the world and initiated the processes that govern it, but they denied that God was involved in the subsequent history of creation and humanity.

To combat deism, apologists began to construct arguments defending the supernaturalism of biblical Christianity. Essentially, they wanted the truths of Christianity to be approached scientifically and justified rationally. The dominant work of apologetics to emerge in this context was John Butler's (1736) *The Analogy of Religion*, which was the most successful and popular work of apologetics for more than a century and inspired a proliferation of apologetic works emphasizing inductive reasoning, analogous to that used in science. Indeed, Butler can arguably be called the father of evidentialism, his apologetics being only an early form of the evidentialist approach.

Evidentialism is an evidential method of apologetics, acting as an advocate for Christianity. This method combines many pieces of evidence that demand a verdict after analysis. Just as in a court of law, the evidence will tip the balance from a low level of credibility to a high level of credibility, as are the principles of the evidentialist method in defending Christianity.

3. Representatives of the evidentialist paradigm

While historical apologists share the classical apologist's emphasis on rational and evidential arguments, they challenge the need to argue for the existence of God before using historical arguments from miracles or fulfilled prophecies. According to the historical apologist, historical evidence is sufficient to prove the veracity of both Christianity and theism. After all, if one is convinced of the historicity of Christ's resurrection, it is not at all difficult to embrace the existence of a miracle-working God. Accordingly, historical apologetics is labelled a first-step approach. A common historical apologetic approach is the use of historical evidence to demonstrate the historicity of the New Testament, including the historicity of Christ's miracles, especially the resurrection. A historical apologist might argue that the historical details of the resurrection are explainable only if a God such as that described by Christianity exists.

Contemporary historical apologists include Gary Habermas, Josh McDowell and John Montgomery (Meister, Swies 2012, 718). Of the historical apologists mentioned, we briefly consider John Montgomery and Josh McDowell's model of apologetic thought.

3.1. John Montgomery

John Montgomery's numerous books and articles, years of teaching at universities in the United States and France, and public debates with Bishop James Pike, Thomas J. Altizer, and Joseph Fletcher helped him to a prominent place as a theologian, historian, advocate, and apologist. Montgomery influenced Josh McDowell, whose evidentialist apologetics gained a wide audience. In the 1970s and 1980s, Montgomery was the leading advocate of the evidentialist approach to apologetics.

Montgomery used a fact-based evidentialist approach in defending the saving gospel and the record that contains it. His best-known work, History, Law and Christianity, presents a "historical-legal" apologetic that sets him apart from other contemporary apologists. This work presents several attempts to determine the reliability of the New Testament Gospels. Montgomery relies on certain tests and presents a tight evidential progression (Boa and Bowman 2001, 250), culminating in proving the case for Christianity according to legal standards of evidential probability.

The outline of the historical-legal argument progresses through a series of arguments. First, Montgomery asserts that the Gospels are reliable historical documents or primary source material. Virtually all scholars (even non-Christians) agree that the Gospels according to Matthew, Mark, and Luke were written within fifty years of Christ's death, and most agree that John was written within sixty-five years of Christ's death. Challengers can check this in any credible Bible encyclopedia. In these Gospels, Christ claims to be God in human flesh (Gospel of Matthew 11:27, Gospel of John 12:45, Gospel of John 10:30, Gospel of Matthew 16:13-17). In addition, Christ's resurrection in the flesh is described in detail in all four Gospel accounts. After this, Christ's resurrection proves his claim to divinity, for if Christ is God, whatever he says is true, and Christ declared that the Old Testament was infallible (Gospel according to Matthew 5:17-19) and that the coming New Testament (written by the apostles or close associates of the apostles) would be infallible as well (Gospel according to John 14:26-27; Gospel according to John 16:12-15).

Montgomery's apologetic system is strongly empirical, with an emphasis on historical evidence for the resurrection of Jesus (Montgomery 2015, 44). He sees apologetics as a kind of evangelism designed to overcome objections to the saving message of the Gospels. He

seeks to do this by grounding Christianity on historically verifiable truths, beginning with a demonstration of the reliability of the gospel records as primary historical documents. He calls on historians to suspend disbelief and honestly examine the evidence without anti-supernaturalist bias. This line of argument leads to the conclusion that Jesus' resurrection demonstrates that His divine claims are true.

In one of Montgomery's most recent presentations of his evidentialist apologetics, the apologist contrasts calls for self-validating faith experiences in Eastern religions with factual verification of the Christian faith:

> Christianity, on the other hand, declares that the truth of its absolute claims is based on certain historical facts, open to ordinary investigation. These facts essentially refer to the man Jesus, the claims about Himself that He is God in human flesh, and His resurrection from the dead as proof of His deity (Mongomery 2014, 40).

In other works, he has used standard techniques of historical analysis for the truth of these facts, but in this essay, Montgomery urges the application of "legal reasoning and the law of evidence" in the approach to apologetic analysis. Montgomery's case for Christianity begins with the reliability of the New Testament writings as historical documents.

He also draws on the analysis of other legal scholars to support the conclusion that "the veracity of testamentary documents can be established in any court of law" (Forrest, Chatraw and McGrath 2020, 486).

Given the authenticity and competence of the New Testament documents, Montgomery defends their witness to Jesus Christ. He argues that in a trial, a four-fold test is passed to determine false testimony from a legal text: (a) internal defects in the witness himself, i.e., any reasons about the witness that would undermine his credibility; (b) external defects in the witness himself, i.e., reasons why the witness may be lying in this case; (c) internal defects in the testimony itself, i.e., inconsistencies in the witness's statements; and (d) external defects in the testimony itself, i.e., inconsistencies between the witness's statements and other facts or testimony from other witnesses.

Montgomery applies this test four times in an evidentialist approach and presents four reasons to conclude that the New Testament documents cannot be disputed and do not provide false testimony:

- There is no reason why the New Testament writers should be considered unreliable.
- They had no reason to lie about Jesus, and indeed they suffered greatly for their testimony to Jesus.
- The Gospel accounts differ enough to be considered independent, but they are not inconsistent with each other.
- The New Testament accounts have been abundantly confirmed by archaeological and historical studies (Montgomery 2015, 47).

Montgomery further expands the legal model and answers the question of whether the New Testament writers were trying to lie about Jesus. Montgomery argues that they could not have. Jewish religious leaders function as "hostile witnesses" because of their inability to respond to the apostles' claim that Jesus rose from the dead. He argues that secondary information is often accepted in both civil and criminal cases, where this information can be evaluated in some way.

The resurrection of Jesus as a historical event is an important argument in support of Montgomery's apologetics. We draw attention to certain key elements in the presentation of this argument developed by Montgomery. The core is the "missing body" argument. If Jesus' body did not rise from the dead, then someone must have stolen it. But the Roman authorities would not steal it because that would contribute to unrest; the Jewish authorities would not steal it because it would undermine their religious influence; and the disciples could not steal it and then lie that it had risen from the dead because they would come into conflict with the Romans and the Jewish authorities (Montgomery 2015, 70). In sum, no one

stole the body and therefore the body must have been raised from the dead. Of course, fanciful alternative explanations, such as Schonfield's Last Supper plot (according to which Jesus arranged to be crucified and managed to survive the ordeal for a long time) cannot stand, are not possible. And Montgomery debunks this argument because legal reasoning operates on probability, not possibility.

Given that Jesus rose from the dead, can this fact alone establish the truth about Jesus' deity? Montgomery answers firmly in the affirmative, arguing that "the nature of legal argument (judgments rendered on the basis of factual verdicts) rests on the ability of facts to speak for themselves" (Montgomery 2015, 206). Jesus' resurrection not only can prove his deity, it can establish the existence of God. While classical apologetics holds that God's existence must be demonstrated before attempting to establish the truth and significance of Jesus' resurrection, Montgomery, as a representative of evidentialism, consciously distinguished his apologetic method from the classical approach.

Montgomery's legal arguments for the Christian faith reveal his professional training as an English lawyer as well as an American lawyer, and build on the groundbreaking work of *Harvard Law School* professor Simon Greenleaf. Montgomery's view helps us understand why lawyers were more inclined to do apologetics than dentists or engineers. And this is not because Scripture is so intertwined with law, but because Christian truth demands serious scientific scrutiny. Montgomery has devoted his energy to establishing the authenticity of ancient biblical documents, and his conclusion is that the biblical documents are the best historically attested works in all of antiquity (Morley 2015, 293).

In the historical-legal apologetics presented by Montgomery, inquirers are invited to investigate the claims of Christianity contained in the New Testament documents as they would any other work of antiquity and to apply the reasoning of probability and the widely accepted canons of legal evidence (John 2014, 55). The importance of Montgomery's legal emphasis in apologetics can be seen in at least three ways of application. First, in the concept of probability reasoning, second, in his use of the 'burden of proof' principle, and finally, in his insistence that a verdict be reached on investigation.

Montgomery uses probability reasoning in favour of Christianity based on establishing the historicity of certain events. This means that if certain central events did not occur, Christianity is both false and virulent (Montgomery 2014, 60). Because Christianity is fact-centred, we need to understand the general nature of factual claims. Facts never rise to the level of didactic evidence and there is always the possibility of error. This leads Montgomery to conclude that Christianity is never apodictically certain because 100% certainty comes only in matters of pure logic or pure mathematics. Instead, probabilities are weighed, all the evidence is considered, like a lawyer presenting it before a court or jury, and then a decision is made. Religious claims should never be required to have a level of factual certainty that is not required in any other field.

At the same time, Montgomery points out that the "burden of proof" is a way for Christians to affirm the relevance and authenticity of Christianity. This statement has several significant, practical implications. First, Christians should recognize the importance of making the case for Christ in the agora of testable arguments. When talking about one of his many debates, Montgomery publicly noted that his goal is to win over the person in the audience who doesn't really know what to choose. His belief is that the burden of proof lies with the Christian, which basically meant that Montgomery's apologetics focuses on positive, fact-based arguments for the case of Christianity rather than tearing down the weaker arguments of other world religions.

John Montgomery has consistently defended total reliance on Scripture and used innovative techniques from other disciplines to do so. The insights of analytical philosophy and legal argumentation are present throughout his works, defending the inerrancy of Scripture. Similarly, his defense of the Gospels of Scripture also benefited from his training

in legal argumentation. The development of a legal-historical case for Christ, beginning with the factual affirmation of the primary source quality and general reliability of the Gospel records is unique among apologists (Montgomery 2015, 49).

His inexorable and judicial approach to defending the crucified Christ sets Montgomery apart from many modern apologists whose emphasis is on proving theism. Montgomery was encouraged to continue his legal training and did so with the explicit aim of integrating legal reasoning into the defense of the central claims of the Christian faith. Today, the *Academy of Apologetics, Evangelism & Human Rights* in Strasbourg, France has influenced a generation of lawyers and judges who have attended annual apologetics training courses (Montgomery 2015, 20).

Montgomery's significant impact on apologetics did not prevent him from engaging in robust public debates with renowned secularists or from having an active career in which he tried some of the most influential human rights cases at the European Court of Human Rights. He has defended the freedom to preach the Gospel in Greece (outside the influence of the Orthodox Church) as well as religious freedom for Christians in Moldova (Morley 2015, 307). Montgomery's contributions can generally be characterized as focused on the Gospel of Christ, both for those railing against the Gospel and for seekers of truth. For those railing against the gospel, he offers an impressive volume of legal, historical, philosophical, and apologetic evidential writings in which historical facts take center stage (Forrest, Chatraw, and McGrath 2020, 487).

3.2. Josh McDowell

Josh McDowell did not set out to become an apologist, a defender of the Christian faith. In his high school years, when he was an agnostic, he was challenged to prepare a paper examining the claims of Christianity from an intellectual point of view. He accepted the challenge and set out to prove that Jesus' claim to be the Son of God and the historical accuracy of Scripture cannot be trusted. In the aftermath, instead of proving the lack of historical arguments against Christianity, he converted to Christianity after finding sufficient arguments for the historicity of Jesus. He discovered that the Bible is the most historically reliable document in all of antiquity, and that Jesus' claim to be the Son of God can be objectively verified.

He began his career as an apologist as a representative of *Campus Crusade for Christ*, which was dedicated to taking the Gospel to student campuses. In addition to advocating for the Gospel among young people, Josh McDowell has organized seminars for teens and young adults, which have included campaigns advocating abstinence until marriage. Josh McDowell has lectured to over ten million young people in 84 countries and over 700 universities and college campuses. He has authored and co-authored more than 100 books with over 42 million copies in print. Unlike John Montgomery, who has no books translated into English, Josh McDowell has 19 books translated. From this perspective, McDowell is an evidentialist apologist who has significantly influenced the Romanian apologetic space. Along with Norman Geisler and Ravi Zacharias, he is the most translated apologist in Romanian.

From an apologetic perspective, his writings focused on the challenges to Christianity from those who question Christian faith and do not believe in Jesus. McDowell presents positive arguments in support of the Christian faith, pointing to historical and legal evidence to establish the authenticity of biblical texts and the divinity of Jesus Christ. In his book, *Testimonies That Demand a Verdict*, he organized his arguments by presenting a cumulative case of evidence, such as archaeological discoveries, extant manuscripts of biblical texts, fulfilled prophecies, and the miracle of Jesus' resurrection. In More Than a Carpenter he mixed historical arguments with legal arguments concerning direct testimony and circumstantial evidence for the life and resurrection of Jesus. He used a similar argument in his debate entitled "Was Christ crucified?" with South African Muslim Ahmed Deedat in

Durban in August 1981. Other highlights of his apologetics included challenging the methodology, assumptions and conclusions drawn in higher criticism of the Old Testament and criticism of the form and wording of the Gospels. His work in this area consisted of a popular summary of scholarly debate, especially from evangelical discussions of higher critical theories. He also gathered apologetic arguments concerning the doctrine of Jesus' divinity: a biblical defense of his deity. In two companion volumes, he and his colleague Don Stewart have addressed popular questions and objections to belief about biblical inerrancy and biblical discrepancies, Noah's Flood, and creation versus evolution.

From the perspective of evidentialist apologist Josh McDowell, Christianity appeals to history, Jesus is a historical reality that can be known like any other. Christianity is a religion of historical facts, and the purpose of McDowell's apologetics is to present these facts and to investigate whether the Christian interpretation of these facts is the most logical. The object of his apologetics is not to persuade any man to become a Christian against his will, but the Spirit of God to use these arguments to remove any rational, logical barrier between man and God. The Christian faith is an objective faith, therefore it must have an object on which all the arguments in its favour hang (Rotaru 2005, 209-231). The Christian faith that brings redemption, salvation, is a faith that establishes one's relationship with Jesus Christ (the object of faith), and in this respect Josh McDowell concludes that it is diametrically opposed to the usual, philosophical use of the term faith in the classroom. Christian faith is in Jesus Christ, its value does not hang on the believer, but it is found in the One in whom every man trusts.

Those who composed the New Testament writings related the events and messages they described as eyewitnesses or wrote from what they heard from eyewitnesses to the events. They knew the difference between myth and reality. The major difference between the events that focus on Christ (e.g. the resurrection of Jesus, the witnessing of it by the disciples) and those related to Greek mythology apply to flesh and blood people who lived in a historical moment, whereas Greek mythology is based on mythological characters who cannot be identified in the historical reality of humanity. Christianity is accused of representing a leap into darkness. This common expression is rooted in Kierkegaard's theology. For Josh McDowell, Christianity did not mean a blind leap into darkness, but rather a step into the light. He took all the evidence he could muster and put it on the scales of reason. The information and arguments that Jesus Christ is the Son of God risen from the dead weighed much heavier. All the evidence gathered was so compelling to evidentialist apologist Josh McDowell that accepting Christianity was not a leap in the dark, but rather a step into the light.

4. Conclusions

The evidentialist model recognizes that probability is inevitable. Evidentialists readily acknowledge that the conclusions available through the inductive process of historical inquiry are probable, not certain. But they hasten to add that no decision in life is made on the basis of deductive certainty. Deduction can reveal whether a conclusion follows from certain premises, but it cannot tell us whether the premises correspond to the truth about the real world. In all things, in fact, we are dependent on human observation and human interpretation, both of which are fallible. Since we will never have all the facts, we can never arrive at absolute certainty from our analysis and interpretation of the facts. But this does not prevent us from reaching conclusions and making decisions in courts of law, scientific laboratories, or business meetings (Meister, Swies 2012, 740). One of the strengths of the evidentialist approach is the use of methods of inquiry already familiar and accepted by many non-Christians. Since the goal of apologetics is to convince people of the authenticity of Christianity, or at least that it is reasonable to believe that it is true, arguments using the methods of inquiry accepted by non-Christians are more likely to be effective. And it is undeniable that evidentialist apologetics has enjoyed great success.

Evidentialists point out that everyday communication between believers and unbelievers requires ordinary logic and a world of shared experience. Without this interaction, communication and dialogue would be impossible.

References

Boa, Kenneth Dale and M. Robert Bowman. 2001. *Faith Has its Reasons: An Integrative Approach to Defending the Christianity.* Colorado Springs: Nav Press.

Butler, Joseph. 1736. *The analogy of religion.* Wentworth Press.

Cowan, Steven B., ed. 2000. *Five Views on Apologetics. Counterpoints*. Grand Rapids: Zondervan.

Forrest, Benjamin K., Joshua D. Chatraw, and Alister McGrath. 2020. *The History of Apologetics: A Biographical and Methodological Introduction*. Grand Rapids: Zondervan Academic.

McDowell, Josh. 2010. *Dovezi în favoarea învierii (Evidence for the resurrection)*. Oradea: Editura Scriptum.

_____. 2015. *Necenzurat*. Oradea: Scriptum Publishing House.

_____. 2020. *Manual de consiliere a tinerilor (Youth Counselling Manual)*. Oradea: Editura Scriptum.

McDowell, Josh and Steward, Eds. 2015. *Generația înstrăinată (The alienated generation)*. Oradea: Editura Scriptum.

McDowell, Josh and Norman Geisler. 2015. *Dragostea are întotdeauna dreptate. Ce faci când nu știi ce să faci? (Love is always right. What do you do when you don't know what to do?)*. Oradea: Scriptum Publishing House.

McDowell, Josh and Sean McDowell. 2014. *Mai mult decât un simplu tâmplar (More than just a carpenter)*. Oradea: Scriptum Publishing House.

McDowell, Josh and Thomas Williams. 2007. *În căutarea certitudinii (In search of certainty)*. Oradea: Scriptum Publishing House.

McDowell, Sean. 2009. *Apologetics for a New Generation: A Biblical and Culturally Relevant Approach to Talking About God*. Eugene: Harvest House Publishers.

Montgomery, John Warwick. 2001. *Faith Founded on Fact: Essays in Evidential Apologetics.* Nashville: NRP Books.

_____. 2015. *Christianity for the Tough Minded.* Nashville: NRP Books.

_____. 2015. *Defending the Biblical Gospel.* San Clemente: New Reformation Publication.

_____. 2015. *Defending the Gospel through the Centuries.* San Clemente: New Reformation Publication.

_____. 2015, *God's Inerrant Word.* Nashville: NRP Books.

_____. 2014. *History, Law and Christianity.* San Clemente: New Reformation Publication.

Meister, Chad V. and Swies A Khaldoun. 2012. *Christian Apologetics: An Anthology of Primary Soures*. Grand Rapids: Zondervan Academic.

Morley, Brian Keith. 2015. *Mapping Apologetics: Comparing Contemporary Approaches*. Westmont: InterVarsity Press.

Rotaru, Ioan-Gheorghe. 2005. *Istoria Filosofiei, de la începuturi până la Renaștere (The History of Philosopy from the Beginning until the Renaissance).* Cluj-Napoca: Universitara Clujeana Publishing House.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310121

Elements of Romanian Folk Architecture: Traditional Houses

Cristina-Valentina Dafinoiu

Associate Professor, PhD, Faculty of Letters, Ovidius University of Constanta, Romania
cristinadafinoiu@yahoo.com

ABSTRACT: The present material has been intended as a brief chronicle of Romanian folk architecture, based on the concept that individual has in perpetuum inclined toward habitation in accordance with their corresponding socio-economic status and household requirements. It explores aspects such as construction methods, along with the choice of position in terms of a sustainable structure to withstand over time for generations to come, the significance of inhabitation in collective consciousness, the evolution of architectural materials over time, and the harmonious blend of architectural styles including the transformation of the living area from the front room to drawing room *(the main home*). The facets in relation to the constitutive elements or parts of a provincial establishment, from the foundation to the rooftop (sheathing), have been taken into consideration and analyzed. The purpose of this article is to uncover the rich heritage embodied in these traditional houses and gain valuable insight into their construction, symbolism, and role within the community.

KEYWORDS: architecture, homestead, villager, sacred, profane, emplacement

Folk architecture represents one of the most complex and extensive domains of ethnic culture in general and popular art in particular, a characteristic that has to be articulated. In this context, Romanian folk architecture highlights the mode of life on the subject of Romanian villagers along with the mentality and socio-economic conditions over the course of time.

> The history of Romanian civilization, deeply rooted in the ancient origins of the Romanian people architectural prowess and benefiting from a bountiful nature in terms of raw materials, have conditioned the emergence of structures that exhibit a clear spatial concept, thus resulting in the construction of geometrically rigorous edifices (Petrescu-Stoica 1981, 16).

From time immemorial, for the Romanian villager and beyond, the habitation house has symbolized the spiritual center of human life, a place where the profane encounters the sacred, around which the majority of the wondrous universe of creatures described in specialized literature revolves. The motivation and the necessity that the individual has felt in point of the idea of building a shelter, the mythical mindset of the Romanian villager has articulated the following explanation:

> The instant that has followed after the creation of the world revealed that God (The Granfer) did not initially conceive the need to provide human beings with a shelter, as the sky was very close to the earth, and celestial bodies (the sun, the moon, the stars) moved among people, warming them. Nonetheless, when divinity became displeased with humanity and raised the sky and celestial bodies high above, far from earth, humans began to experience the need for protection against the elements. At first, they sought refuge in forests and caves, but gradually, as the numbers increased, they felt the need to shelter themselves artificially. It was in that moment that God, who has constantly looked after for his creation, in his notorious benevolence, brought up the idea of constructing subterranean covers (huts) and subsequently above-ground structures (houses) (Petrescu-Stoica 1981, 19).

The traditional Romanian village (Marin 2006, 1109-1112), which is scarcely preserved in current time, had revealed in point of the habitation peculiarities of construction that endowed it with a distinct architectural profile, being influenced by the region, occupations, the degree of ethno-historical spirituality, and especially a remarkable artistic sense. The setting up of a house was

initiated only after particular construction rituals were performed in the respective household, aiming to solidify the new dwelling as a whole. These rituals included practices such as the edification of a living person (the Legend of Craftsman Manole), the burial of the stolen shadow of a human being in the foundation of the construction, introducing apotropaic inscriptions (magical verses) with talismanic value among the bricks in the walls, a practice prevalent in the Middle Ages, and the sacrifice of a poultry bird, a ritual that continues in present.

In the broad sense of the term, the house represents a "building used as a dwelling" (DEX, s.v.), a structure that is intended to be inhabited, constructed from diverse materials using various techniques, featuring different dimensions and various rooms to cater to the material and spiritual needs of the occupants, thus being embellished in Romanian folk architecture with a significant and artistic decorative theme (Stoica and Petrescu 1997, 102).

When the peasant decided to build a house, his worries began with choosing the place for the new construction (because it had a very important role) and ended with the lighting of the first fire in the hearth. The mindset of the Romanian peasant has perceived the abode as a space with material, economic, and utilitarian value and an area that is endued with spiritual meanings, thus creating a profound connection, and a nucleus of stability, tranquility, harmony, fertility, and blessings. It was no coincidence that on ***the headpiece of the facade*** were carved open palms raised toward the sky, the snake of the habitation, astral symbols (sun, moon), and stylized horse heads on either side of the entrance, representations of the protective solar spirits of the dwelling with no practical purpose, nevertheless with aesthetic and spiritual significance.

The habitation of the villager was seamlessly integrated with other spaces, namely the vicinity, the heart of the village, and even the boundary, the confine between the space that offered a sense of security and freedom and the unknown. In particular, the above-mentioned boundaries (along with crossroads) were being marked with triptychs or wooden or stone crosses, intended to shield the one that dared to cross beyond this space, the one who ventured out of the realm where the sense of protection was to be conferred within.

The intended area as regards the construction of a habitation, preferably situated as higher as possible and set away from the road, the orientation of the dwelling place always toward east or south, the positioning of the chamber, also on the east side along with the arrangement of objects inside were not coincidental and served not only practical purposes but also held deep spiritual significance. The Romanian peasant considered the sunrise as the source of light, and the south as bountiful and generators of welfare, therefore positive, while the sunset and the northern direction were considered less fruitful and harboring negativity (Bernea 2007, 73).

The peculiarities of the sunrise are related to the present existence in the world and linked, in line with the beliefs of the Romanian people, to the theme of death and resurrection: "Everything is oriented toward the sunrise regardless one takes into account an abode or a flower, even a deceased person is laid to rest with the face onto the sunrise" affirm Elena Bășa, 40 years old, Moeciu de Jos, Bran, 1971 (Bernea 2007, 74).

Hence, in terms of the placement of the dwelling, for the Romanian peasant, there were only two types of locations: the former that was benefic and pure, being chosen with great attention, while the latter was perceived as reverse, defiled, typically where iniquities (all sorts of crimes) had been committed or where malevolent forces exerted influence (haunted places). The outset of new construction implied a prior act, namely the Romanian peasant always resorted to the benediction of the site anent the household in order to revitalize the beneficial attributes of nature and the corresponding purity, attributes that were tied to the divine order in which God had created the world. The necessity to protect against evil and ensure the longevity in respect of the new dwelling has determined the peasant to appeal to certain ritualistic gestures, specifically the burial of protective items at the foundation of the habitation, which were believed to bring well-being and prosperity, including holy water,

incense, wine, salt, bread, or symbolic representations of continuity: the shadow of a person, the string used to measure a human figure, small sacrificed animals, reminiscent of the creation sacrifice myth.

The spiritual and social significance attributed to the dwelling by the Romanian villager was exceptionally strong as it was closely linked to family and tradition (Bernea 2007, 143); the formation of a family was inconceivable without establishing a household, a home of their own (before getting married, the lad needed to have a abode, whereas the young woman, a dowry). The peasant could neither experience the feeling of wholeness nor consider to be fully integrated within society unless the possession of a house existed, regardless of its size. Thus, the endeavor and necessity to put down roots were nurtured by a profound social sentiment of community engagement and the stability of the family within the village.

The habitation of the newly formed family was not constructed at a distance far from the one of the parents so as to ensure that the familial bond remained intact, while the youngest child of the family was to live together with the parents and had the moral duty to care for them until demise, thus ensuring that the burial process had been carried out accordingly and by means of proper rituals. The mentality corresponding to the village of the past, leaving behind the parental inheritance was considered a mistake, a severance from a "familial treasure" which, upon abandonment, was destined to disappear and as a consequence the adjustment to a life devoid of roots involved considerable anguish. Hence, marriages usually occurred between young people from the same rural community and on rare occasions from different villages.

Therefore, the decision in point of the location for the dwelling place was followed by the construction of the new habitation that, in the mindset of the traditional village corresponding to that time, meant that not only relatives and friends would be involved in this activity, but the entire community would participate through the organization of "corvées" (The corvée entailed an activity of a "benevolent collective work that was performed by peasants to help each other, often accompanied or followed by a small celebration, drollery, and stories" (DEX, s.v.). The manner in which the peasants assisted each other in all activities anent building habitations, plowing fields, harvesting crops has determined the perspective according to which in relation to the traditional village of the past, to set up a home was considered as regards the amount of money inexpensive as the necessary materials were provided by the geographical area of the village (wood, earth, or stone) and durable, thus imparting a sense of stability and independence.

In terms of typology and ethnography, the constructions to be inhabited by Romanian villagers were classified according to:

I. The building material and the construction technique,

II. The elevation (height above the ground),

III. The plan of the house and the number of rooms.

I. The material and the building technique with view to the construction of the dwelling place create the following division:

a. Habitations with walls made of rammed earth specific to flat areas where wood is scarce or expensive;

b. Habitations with walls made of wood, utilizing techniques such as horizontal girders or log wreath, a wooden supporting frame that was completed or filled with various materials (wattle, logs, bricks), or a woven wattle frame coated with a mixture of yellow soil and cow dung. This type of house, known as "timber-framed," were particular to hillside and along larger rivers where limber wattle thickets grew;

c. Habitations with walls made of "wattle" (rom. *văioagă*) a larger type of burned cinder block the composition of which was a mixture of clay; these can still be found in plain regions;

d. Habitations with walls made of "mud" (rom. *chirpici*) a brick-like construction material made from a mixture of clay, straw, and dried cow dung, prevalent in Dobrudja, where the climate somewhat necessitated it due to the hot summers, thus providing a sense of comfort in point of a moderate temperature for during the season;

e. Habitations with walls that were made of stone, and more recently, cement; the stone was typically used as a foundational material for houses, whether built on a wooden structure or cinder block.

II. In respect of elevation, namely the height of the habitation in point of the ground level, constructions can be classified as follows:

a. Habitations that were built below ground level, partially buried in the ground, an example would be "the shanty" (rom. *bordei*). This type of shelter is known since the Neolithic period, not only on Romanian territory but worldwide.

The "shanty" represents a rudimentary dwelling place common across the world; the construction technique involves digging a deep hole of approximately one to one and a half meters, with wattle walls meant to support the border of land and coated with a thick layer of clay whereas the roof was made of soil, straw, or reed-covered (Stoica 1985, 78). All things considered, "shanty" does not represent, as one might think, a primitive mode of habitation, but rather an adaptive one for humans, as in the summer the atmosphere within it kept breezy and warm in the winter; being not necessarily indicative of the poor economic status of the family that would inhabit them. In fact, the habitation often required a significant amount of materials, to the point that they could be more expensive than the surface of the dwelling with plaited wattle walls. Typically, "the shanty" had two rooms: the former placed near the source of heath, where the fireplace was located, and the latter intended to habitation, heated by a stove that was fueled from the former room. In the Dobrudja region, the "shanties" were dug into earth embankments and referred to as "earth houses" by the natives specific to the Danube Plain, southern Oltenia, and Dobrudja.

In the pictures below, there is Castranova Shanty/Cottage, in the region of Dolj County, south-western area of Romania, located and rebuilt within "Dimitrie Gusti" Village Museum in Bucharest.

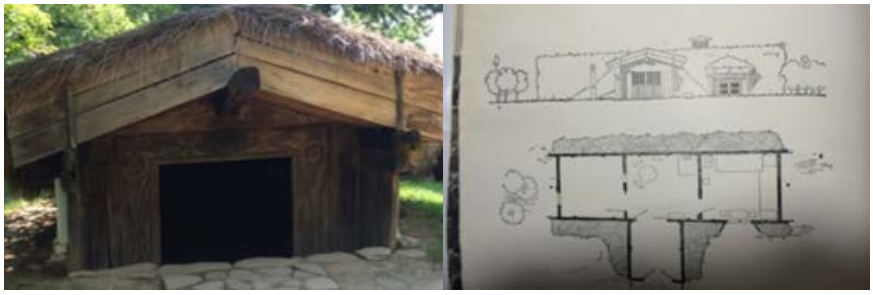

Figure 1: Castranova Shanty/Cottage, south-western area of Romania

This type of "shanty" is embedded into the ground up to the roof (roof covering), and as seen from the layout of the habitation, it comprises four rooms arranged in a T-shaped plan. The dividing walls are constructed as "timber-framed" (plaited wattle walls, coated with a mixture of yellow clay and cow dung) and plaster. The peripheral walls are built from soil and supported by thick vertical wooden boards placed side by side, resembling a lining. Additional planks, supported at the center on a strong ridge, form the two sides of the roof, which is externally protected by a thick layer of compacted soil. The rooms are spacious and welcoming, with the central room being particularly notable. The distinctive feature of the entire architecture is the entrance, which appears as a fronton with the corners marked by the protrusions of wooden beams, cut in the shape of stylized horse heads - ornaments with ancient magical significance, as previously mentioned, serving as protection for the family members of the dwelling place.

b. Habitations that were built **at ground level**, such as: *the shepherd's hut* (rom. *colibă*), *one **row*** houses with one “level”, and dwellings with *two **rows*** or two levels.

1. The most rudimentary form of dwelling is the shepherd's hut; this type of construction is found in mountainous regions and is built within the pastoral household called a "sheepfold" (a temporary sheepfold). Structurally, the shepherd's hut is as simple as it can be: four walls made from logs or woven branches on a framework of stakes, and above, a roof, usually with two slopes covered with shingles. Often, the hut had only one room without a ceiling, fireplace, or oven; at times, huts were comprised of two or three rooms. Designed solely as a temporary shelter to meet the needs of life and pastoral economy during periods when the flock was halted in a specific region, the shepherd's hut is a rudimentary type of dwelling without significant architectural interest. It holds only documentary value due to its construction method, material, and as an ancient form of housing characteristic of transhumant shepherds. These shepherds would move their herds cyclically between vast and unbounded territories, a practice known as transhumance, ascending to the mountains during summer and descending to the plains where the weather was milder during winter. Similar forms of huts are encountered not only in Romanian territory but also in other areas of the Balkan Peninsula where transhumant shepherds have existed and still exist today, as transhumance involves the cyclical movement of sheep flocks across extensive and borderless territories.

Figure 2: The Shepherd's hut

2. The one "row" habitation (what is currently referred to as a one-story house), built at ground level, represents the evolved form of the dwelling used almost exclusively by the Romanian peasant, as it provided the necessary living space for families, often of considerable size. This type of house has a very long history and a widespread presence, being found throughout Romanian territory. The one "row" house was adapted not only to the terrain where it was to be built, the environmental conditions (climate), and construction materials, but also to the lifestyle of the peasant and the family that would inhabit it. Situated within the village boundaries, surrounded by hills, valleys, and streams, it displays various appearances and types, often well-marked. However, beyond these differentiations, in terms of general layout and volume, houses in all Romanian regions conform to a unified, regular form, which is that of a straight prism or at most two such prisms juxtaposed with a rectangular section.

3. The tall house, or the house with two "levels," is a later appearance in the realm of Romanian vernacular architecture (19th century). The house is built either on a high foundation of river stone masonry (beneath which generally lies the cellar or tool room), or on a semi-developed or well-constructed ground floor. This type of house was more often found in households with means, as they could afford the construction of such a more costly house.

III. The floor plan and the number of rooms (the horizontal description of the dwelling) have determined the following division:

a) ***The single-room*** or ***monocellular habitation*** is considered to be the also the oldest one along the course of time, built at ground level and specific to scattered pastoral villages, represents the most ancient type of folk dwelling. This type could be constructed from the same above-mentioned materials (large wooden logs, timber-framed, mudbrick, etc.) and had a porch or a direct access from the courtyard, and usually featured two small windows on either side of the entrance door. The roof of such a monocellular house usually had a four-sided shape and was covered with reed, shingles, or later on, sheet metal. Inside, the walls and ceiling were often plastered with clay mixed with chaff and/or coated with loam. The floor could be made of compacted earth/soil and pasted by means of clay, then being blended with horse manure or timber planks. The interior, was characterized by modesty, invariably dominated by the hearth with an elongated oven that was soldered with clay.

b) The **two-room dwelling place**, initially independent with separate entrances, later had a single entry with rooms arranged side by side and separated by a hallway.

The two-room house follows the monocellular model in chronological evolution. The two rooms of this type of house are independent with separate entrances directly from the porch, serving one as a living space and the other exclusively for storing provisions or receiving guests. The living room also functions as a kitchen and bedroom; for cooking, the fire was set on an open hearth (rom. *căloniu* or *horn*), a sort of low podium situated in the corner formed by the back wall and the partition wall between the two rooms, above which a large pyramidal chimney, made of woven wicker and clay, was hung from the ceiling. Through this chimney, smoke was conducted into the attic and then slowly released through gaps in the roofing material. Generally, the attic also served as a smoking chamber for meat and pork products, while during winter, after ***Ignat-St. Ignatius Day*** (the day of pig slaughter in the Christmas fasting period), the peasant would hang meat there for preservation through smoking. The image below presents my grandparents house, which is a tall habitation with a dormer and two independent rooms (left room - living room, right room- ”big house” or guest room), with a shingle roof, built in four bays and stick walls (rom. *vârghii* or *paiantă*). The house is in Valea Village, Dambovita County, Muntenia area.

Figure 3: House in Valea Village, Dambovita County, Muntenia area

Later on, the open hearth was replaced by a stove with a cooking surface. This type of habitation, in its archaic form, is still preserved today in certain areas of Muntenia and Transylvania.

c) The habitation with a **hallway** (rom. *tindă*), the most advanced and widespread type of rural dwelling in Romania, has two variants: one with two rooms and another with three rooms, depending on the construction plan. In this structure, the hallway is the smaller room in the two-room variant or the central one in the three-room variant, but invariably, the

hallway is the space through which one enters the house. The second, larger room is called the "big house" and was used as a guest room, while the room used for living was called the "small habitation."

Since the hearth from the living room of the ***monocellular dwelling*** was moved to the hallway, the latter received, in addition to its function as an entrance room, the role of a kitchen, so that the room in which the family spent their life remained exclusively a living space. This marked a real improvement in terms of hygiene conditions.

The methods of constructing a dwelling along the horizontal axis along with the evolution of the peasant habitations in terms of the number of rooms have been analyzed within the lines of the article, hereinafter the manner of vertical appearance is considered, anent three constructive registers: the foundation, the walls, and the roof or sheathing.

1. **The foundation** of the habitation was generally made of a combined stone wall, hewn into the ground and built above the surface. Larger stones were placed at the corners to anchor both sides of the wall. The height of the foundation depended on the location of the dwelling place; in flood-prone lowland areas, higher foundations were built, while in sloping hilly areas, the foundations were lower. Another criterion for determining the height of the foundation was the amount of stone the villager had, as stone was expensive and often transported by oxcart from a distance. After constructing the foundation, the space between the walls was filled up to the level of the foundation with compacted soil by means of a wooden mallet (a "hammer-shaped tool (made of wood) used for pounding, compacting, and leveling" (DEX, s.v.) and brought in baskets made of wicker.

2. The partitions of the habitations were erected after completing the foundation. In accordance with the area where the dwelling was to be built, the **walls** could be made of stick/ wattle (rom. *vârghii* or *paiantă*) (plaited with soil mixed with dung), wooden beams, or bricks. Until the beginning of the 20th century, houses with walls made of wooden beams (usually spruce), either round or carved with edges, were typical for Romanian villages. They were "joined at angles using systems called fish tails or notches," or made of adobe, while houses made of bricks or stone were very rare. With few exceptions, all types of peasant houses featured an open gallery (a sort of balcony) on the front and often on the sides. In Moldova and Muntenia, it was referred to as "veranda," in Oltenia "hall," in southern Transylvania "the head piece of the bridle" and "porch," while in Maramureș it was "booth."

The "stoop/porch" (rom. *prispă*) was made of compacted clay or wood, often bordered on the outside by a low timber wall with ornamental perches and allowed the passage toward the habitation was via the entrance hall. The "stoop" or verandah was to be noticed either be in the front of the dwelling or to surround the construction entirely, an architectural element providing external protection to the walls against the elements, being endowed with mythical value, while functioning as a transition area between the exterior and interior, the courtyard and the house, and vice versa. In many Romanian villages, from spring until late autumn when the weather turned colder, the peasants would sleep outdoors on the "stoop". Additionally, particular mythic-magical activities were performed on the "stoop" that were related to rites of passage, anent birth and christening, bridal ceremony and funerals. Sometimes, women would cast spells and charms from the "stoop" at night towards their intended addressee.

3. **The roof** of the traditional Romanian habitation had been submitted to evolution over time and architectural diversity in accordance with the ethnographic regions and the material possibilities. Initially, the accommodations were covered with thatch and reeds, then with shingles (especially made from spruce wood), and more recently, peasants have used tiles and metal sheets. A specific pattern of roof among Romanians, as well as other Balkan Peninsula peoples, was the four-ridged one, regardless of the material used for its construction. The roofs of Romanian dwelling places particular to villagers could be characterized by means of two fundamental characteristics: a significant height in relation to the walls, which allowed

for easy and rapid drainage of rain or snow as well as a considerable width of eaves, which always included the porch of the habitation within them.

The mentality of the villager attributed importance to another noteworthy area of the house, namely the ***threshold*** (rom. *prag*) with a specific role within the course of the rites of passage. An example was related to weddings, during which the grooms were embraced on the threshold by their in-laws and godparents. In return from the church, the baptized child was handed to the mother by the godmother over the threshold, with the words, "You gave me a pagan, and I brought you a Christian." Currently, the bride is carried over the threshold in the groom's arms. Moreover, in the process of the construction, money was buried under the threshold to magically attract wealth into that dwelling.

Similarly, ***the window*** held special significance in the rituals that were aimed at altering or impeding a predetermined fate, which would involve the sell of a newborn child, after several previous births, resulted in the death of the children (Vuia 1980, 142; Marian 1995, 86). On a window of the house, the most recent child born was traded by the mother and bought by a close relative or a stranger. After a few hours, the mother would redeemed the child from the buyer using the initial amount of money paid. This redemption took place on the porch of the house, and the child's name would change at that moment. Abduction of young girls was also practiced by means of windows, usually the side ones, when parents disagreed with a marriage proposal, believing that the trail of the abductor could not be identified. Christmas Eve carols were sung at the front windows, with carolers lightly tapping the windows with sticks (the caroling sticks). ***The hearth*** (rom. *vatră*) and the ***chimney*** (chimney stack) (rom. *coș de fum / horn*) also possessed considerable importance in daily activities and mythical-ritual practices.

The hearth has symbolized the divine connection between Earth and Sky, the place food was prepared, where a woman would give birth to her first child for good luck, where incantations were performed, love spells were cast, and the future was divined. The hearth provided magical protection for people, especially women, being considered the most significant sacred space in the traditional habitation. Simultaneously, it represented a space of safety since the material value was stored in a clay pot beneath the hearth to prevent it from being stolen by malicious individuals. The actual layout of the house was organized around this central element, where light, warmth, and sustenance were produced.

The chimney stack represented one of the entrances of the dwelling, permanently open, and it was believed that through this magical "opening," witches, demons, and nocturnal creatures circulated during their activities. Peasants believed that the soul of the deceased would exit through the chimney stack.

The corollary of the analysis in point of the material at issue denotes the perspective according to which the habitation of the Romanian peasant has always represented the core center of life as regards the social, economic, historical, and anthropological aspects (Rotaru 2005, 462c). The diversity of typological forms known in traditional houses contributes to the variety of folk architecture. The dwelling place of the villager is the place where the material and spiritual culture of the Romanian people have originated, developed, and been preserved over the course of time. This article has shown how Romanian folk architecture is not just an architectural style but also a testament to the resilience of a culture deeply connected with its rural heritage.

References

Bernea, Ernest. 2007. Civilizația română sătească (Village Romanian Civilization). Bucharest: Vremea Publishing.

DEX - Dicționarul explicativ al limbii române (Explenatory dictionary of the Romanian language). Bucharest: 1998.

Marian, Simion Florea.1995. *Nașterea la români (The birth to Romaninas).* Bucharest: Grai și Suflet Publishing House, National Culture.

Marin, Marilena. 2006. *Proprietatea în epoca statului sclavagist (Property in the Age of the Slave State).* In The Homage Volume of Prof. Nicolae Dură. Constanta: Arhiepiscopia Tomisului Publishing.
Petrescu, Paul. 1974. Arhitectura țărănească de lemn din România (Wooden peasant architecture from Romania). Bucharest: Meridiane Publishing.
Petrescu, Pau and Georgeta Stoica. 1981. *Arta populară românească (Romanian Folk Art).* Bucharest: Meridiane Publishing.
Rotaru, Ioan-Gheorghe. 2005. Istoria filosofiei, de la începuturi până la Renaştere (The history of philosophy, from the beginnings to the Renaissance). Cluj-Napoca: Cluj University Press.
Slătineanu, Barbu. 1972. *Studii de artă popular (Folk art studies).* Bucharest: Minerva Publishing.
Stoica, Georgeta. 1985. *Dicționar de artă populară românească (Romanian folk art dictionary).* Bucharest: Științifică și Enciclopedică Publishing.
Stoica, Georgeta and Paul Petrescu. 1997. *Dicționar de artă populară (Folk art dictionary)*. Bucharest: Enciclopedică Publishing.
Vuia, Romulus. 1980. Studii de etnografie și folclor (Studies of ethnography and folklore). Vol. II. Bucharest: Minerva Publishing.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310125

Agreement on Extradition between the European Union and the United States of America; Bilateral Extradition Treaty between the United States of America and Romania. Practical Aspects

Simona Franguloiu[1], Nicoleta-Elena Hegheș[2], Mihaela Pătrăuș[3]

[1]Lecturer contributor, PhD, Transilvania University Brașov, Brașov, România
simona.franguloiu@unitbv.ro, simonafranguloiu@yahoo.com
[2]Researcher 2nd Degree at "Andrei Rădulescu" Legal Research Institute of Romanian Academy, Bucharest, Romania, nicoleta.heghes@icj.ro; Professor, PhD, "Dimitrie Cantemir" Christian University of Bucharest, Romania, nicoleta.heghes@ucdc.ro
[3]Asociate Professor, PhD, Oradea University, Oradea, Romania, mihaela.patraus@didactic.uoradea.ro

ABSTRACT: When interpreting and implementing the agreement concluded between the European Union and the United States of America, the Parties shall ensure that its provisions apply to existing bilateral extradition treaties concluded with the Member States and shall fill any gaps in these treaties, with the aim of making international judicial cooperation more effective and avoiding the risk of impunity. This article emphasizes the commitment to uphold the principles of the rule of law and safeguard the procedural rights of extraditable persons, both by central authorities and courts. Furthermore, it acknowledges the challenges posed by differences in legal systems involved in these processes, and highlights the promotion of an international system grounded in clear, precise rules and procedures, as well as the fundamental values of democracy and human rights.

KEYWORDS: International judicial cooperation, extradition, EU-US extradition agreement, bilateral extradition treaties, respect for the rights of the extraditable person, risk of impunity, judicial practice

1. Introduction

Recent decades have seen an exponential increase in the cross-border nature of crime, particularly transnational organized crime, which is likely to create practical problems in investigating and prosecuting offenders and in enforcing custodial pre-trial orders and convictions, as suspects, accused or convicted persons often seek to escape criminal liability.

The new freedom of movement, together with the development of science and the use of the latest technological developments, particularly in the online field, have led to an exponential increase in crime and are making it increasingly difficult to detect, prosecute and try offenders, including the enforcement of sentences imposed or preventive measures, so that a comprehensive approach is needed, in which facilitating international judicial cooperation is a necessity in the fight against crime and the protection of democratic societies and their common values (The Preamble to the US-EU Extradition Agreement, published in the Official Journal of the EU L 181/27 on 19 July 2003). All forms of cooperation are based on the principle of mutual trust in judgments and the principle of loyal cooperation and aim to remove the differences between the different legal systems, so that international judicial cooperation has become a genuine branch of law (for more details see Corlățean 2011 and Corlățean 2015).

In order to ensure efficient and effective investigative activity and the smooth running of criminal proceedings, including at the enforcement stage, international treaties and agreements have been concluded and various bodies and agencies specialising in international cooperation have been set up at international level as mechanisms and instruments designed to provide support to the judicial authorities involved in executing requests for cooperation. However, a number of problems arise in judicial practice, particularly where the legal systems

involved are different, one being common law and the other continental law, given the lack of a unified strategic approach.

2. Agreement on extradition between the European Union and the United States of America signed on June 25, 2003 in Washington (published in JO L 181/34 on July 19, 2003, entry into force on February 1, 2010). General terms and conditions

Independently of the nature of the legal system involved in the execution of requests for judicial cooperation, in view of the massive increase in the number of such requests, the Agreement on Extradition between the European Union and the United States of America was negotiated and concluded for the purpose of facilitating judicial cooperation between the Member States of the European Union and the United States of America, further cooperation between them (The Preamble to the US-EU Extradition Agreement, published in the Official Journal of the EU L 181/27 on July 19, 2003) in order to combat crime effectively, while respecting the rights of the individual and the rule of law and taking into account "the safeguards provided for in their respective legal systems, which provide for the right of the extradited person to a fair trial, including the right to be tried by an impartial tribunal established by law" (Ibidem).

It should be stressed that the achievement of this objective depends on the "convergence and compatibility of the justice systems" (Bitanga, Franguloiu and Sanchez-Hermosilla 2018, 7) involved and aims at building a homogeneous system for international judicial cooperation and, in particular, extradition. In essence, "the Contracting Parties undertake, in accordance with the provisions of this Agreement, to strengthen their cooperation in the context of the relations applicable between the Member States and the United States of America as regards the extradition of offenders", as stated in Article 1 of the Agreement defining the subject matter. This means that the Agreement complements (https://eur-lex.europa.eu/RO/legal-content/summary/agreement-with-the-united-states-on-extradition.html) the provisions of the bilateral extradition treaties concluded by the United States of America with the Member States of the European Union, is designed to strengthen and facilitate cooperation in extradition procedures and sets out the conditions for extradition of accused or convicted persons between the Contracting Parties in order to reducing and eliminating the risk of impunity.

Article 3 also provides that the provisions of the Agreement shall apply to existing bilateral extradition treaties concluded by Member States with the United States of America, and a number of conditions are laid down. Thus, extradition is only granted on the basis of a list of specified offences (Article 3 para. 1 lit. (a) of the Agreement) and supplements the absence of provisions in the bilateral treaties.

3. Agreement on extradition between the European Union and the United States of America. Specific conditions

Offences that are extraditable

Article 4 provides that an offence is extraditable "if, under the laws of the requesting and requested States, it carries a custodial sentence of a maximum of more than one year or a more severe penalty. An extraditable offence is also considered extraditable if it consists of attempting, aiding or abetting or participating in the commission of an extraditable offence. If the request concerns the enforcement of the sentence imposed on a person convicted of an extraditable offence, the remaining period of imprisonment must be at least four months."

Thus, this concerns offences for which a custodial sentence of a maximum term of imprisonment (of more than one year) or more severe may be imposed and any form of criminal attempt or participation in the commission of such offences.

Article 4(2) lays down a condition which is subject to the principle of specialty, namely: "if extradition is granted for an extraditable offence, it shall also be granted for any other

offence specified in the request if the second offence is subject to a custodial sentence of one year or less and provided that all the other conditions for extradition are met". In fact, this provision tends to cover also less serious offences for which extradition could not be granted, as the applicable penalty requirement is not met, but which is subject to the requirement that the other conditions for extradition are met.

In our opinion, the reason for this regulation was practical and pragmatic, in order to avoid repetitive extradition requests for the same requested person for offences committed at the same time as or in connection with the main extraditable offence, and to narrow the scope of the political exemption.

4. Mandatory and optional grounds for refusal

Given that any extradition request is dealt with according to the bilateral Treaty (The Extradition Treaty between Romania and the United States of America, signed in Bucharest on September 10, 2007, ratified by Law no. 115 of 2008, published in the Official Gazette of Romania no. 387 of May 21, 2008, is applicable to the processing of cooperation requests between the United States of America and Romania) and national procedural provisions, we will deal with some mandatory and optional grounds for refusal provided by Romanian law, namely Law No 302 of 2004 on international judicial cooperation (republished in the Official Journal of Romania No 1.110 of November 17, 2022). Article 21 of the aforementioned law provides for mandatory grounds for refusal ((1) Extradition shall be refused if: (a) the right to a fair trial within the meaning of the European Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on 4 November 1950, or any other relevant international instrument in this field ratified by Romania, has not been respected; b) there are serious grounds for believing that extradition is requested for the purpose of prosecuting or punishing a person on account of race, religion, sex, nationality, language, political or ideological opinion or membership of a particular social group; c) the person's situation is likely to deteriorate for one of the reasons set out in point (a) above; (d) the request is made in a case pending before extraordinary courts or tribunals other than those established by the relevant international instruments, or for the enforcement of a sentence imposed by such a court or tribunal; (e) it concerns a political offence or an offence connected with a political offence; (f) it concerns a military offence which does not constitute a non-political offence. (2) The following shall not be considered crimes of a political nature: a) attempts on the life of a Head of State or a member of his family; b) crimes against humanity provided for in the Convention on the Prevention and Punishment of the Crime of Genocide, adopted on 9 December 1948 by the General Assembly of the United Nations; c) crimes provided for in Article 50 of the 1949 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, in Art. 51 of the 1949 Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces in the Field, Art. 129 of the 1949 Geneva Convention relative to the Treatment of Prisoners of War and Art. 147 of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War; d) any similar violations of the laws of war which are not covered by the provisions of the Geneva Conventions referred to in sub-paragraphs (a) and (b) above; (e) offences referred to in Article 1 of the European Convention on the Suppression of Terrorism, adopted at Strasbourg on January 27, 1997, and other relevant international instruments; (f) offences referred to in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 17 December 1984 by the United Nations General Assembly; (g) any other offence the political character of which has been removed by international treaties, conventions or agreements to which Romania is a party), while Article 22 provides for two optional grounds for refusal ((1) Extradition may be refused where the offence on which the request is based is the subject of an ongoing criminal trial or where the offence may be the subject of a criminal trial in Romania. (2) Extradition of

a person may be refused or postponed if surrender is likely to have particularly serious consequences for that person, in particular on account of his/her age or state of health. In the event of refusal of extradition, the provisions of Article 23 (1) shall apply accordingly), the most important and frequently invoked in practice being the violation of the right to a fair trial and the existence of criminal proceedings pending in Romania for the same offence or for an offence related to that for which extradition is requested.

It should be pointed out that there are other situations in which extradition cannot be granted, provided for by the Romanian law on international judicial cooperation and which take into account:

- the possibility of the death penalty (Article 27 of Law 302 of 2004: "If the offence for which extradition is requested is punishable by death under the law of the requesting State, extradition may be granted only on condition that the State concerned gives assurances considered satisfactory by the Romanian State that the death penalty will not be carried out and will be commuted". It should be pointed out that there is no death penalty in any Member State of the European Union, but only in certain US states, respecting the diversity of cultures and traditions, so that state must give assurances that any death penalty will not be carried out or, if carried out, will not be executed. This impediment to extradition could raise multiple legal problems, given that there is no such penalty in the European Union, and the Charter of Fundamental Rights of the European Union, which is equal in value to the founding Treaties (Treaty on the Functioning of the European Union and the Treaty on European Union prohibits the death penalty by Article 2(2) of the Treaty on the Functioning of the European Union and the Treaty on the European Union): "No one shall be condemned to the death penalty or executed" and requires absolute respect for the rights and freedoms of the individual, including the right to a fair trial in all aspects of the criminal justice process, which are enshrined as fundamental principles.) being imposed (a hypothesis also covered by the Agreement in Article 13);
- the absence of a prior complaint (Article 30 of Law 302 of 2004) where, in both the requesting and requested States, criminal proceedings can only be instituted on the basis of a prior complaint by the injured person and the injured person opposes extradition;
- if the extraditable person would be tried in the requesting State by a court which does not guarantee fundamental procedural safeguards and protection of the rights of the defence or by a national court established specifically for the case in question or if extradition is requested for the purpose of enforcing a sentence imposed by that court (Article 31 of Law 302 of 2004);
- where the person to be extradited has been tried in absentia, if it is considered that the proceedings have disregarded the rights of the defence afforded to any person suspected or accused of having committed a criminal offence (Article 32 of Law 302 of 2004), unless assurances are given which are deemed sufficient to guarantee the person whose extradition is requested the right to a retrial in order to safeguard his rights of defence;
- whether the statute of limitations for criminal liability or the execution of the sentence is applicable, either under Romanian law or under the law of the requesting State (Article 33 of Law 302 of 2004);
- if the offence for which extradition is requested is covered by an amnesty in Romania (Article 34 of Law 302 of 2004), if the Romanian State had jurisdiction to prosecute this offence under national law, and in the event of a pardon (Article 35 of Law 302 of 2004), since the act of pardon renders the extradition request inoperative, even if the other conditions are met (Article 36 of Law 302 of 2004).

4.1. Opposition to extradition

Article 49 of the Romanian Judicial Cooperation Act provides that opposition to extradition may be based only on the fact that the person arrested is not the person sought or that the

conditions for extradition are not met. In this regard, it was found that the opposition of the extraditable person to the extradition request made by the United States of America under the bilateral treaty between the two States was unfounded and extradition was ordered (Criminal judgment no. 194 of 13.12.2011 delivered by the Craiova Court of Appeal, www.rolii.ro). The requested person has defended his opposition on the grounds that he has never been to the territory of the United States of America, that he is not a citizen or resident of that State, and that he has a case pending before a Romanian court, thus the provisions of Article 14(2) of the bilateral treaty being applicable. In addition, the person concerned also claimed that he had been charged in the United States in absentia, the criminal proceedings having been carried out in his absence and without the assistance of a lawyer, thus violating his right to a fair trial, and requested that, by way of a request for additional information, the American authorities transmit to the Romanian judicial authority the data and evidence gathered against him so that he could be tried in Romania for the offences in question. He also claimed that the requesting State had not given any assurance that if he was convicted in the USA he would be transferred to serve his sentence in Romania, in accordance with Article 20(2) of the Romanian International Judicial Cooperation Act.

The court found, in essence, that an arrest warrant had been issued against the requested person by the US judicial authorities for the offences of: conspiracy to commit bank fraud, conspiracy to commit bank fraud in connection with access devices, and aggravated identity theft, under 18 U.S.C. § 1349, 18 U.S.C. § 1028A, consisting of the extraditable person, along with 12 other co-defendants, engaging in "phishing" schemes in which they sent fraudulent messages via email that appeared to be from banks and other legitimate companies to deceive people into revealing private information, such as: name, address, date of birth, social security account numbers, credit or debit card numbers, and bank card numbers. A person accessing the links in the fraudulent e-mails was redirected to one or more Internet sites that falsely appeared to originate from a legitimate company, with the illegally obtained information being used to obtain goods and services to which the defendant was not entitled.

With regard to the grounds invoked by the requested person, it was found that they have no basis, since some of them are not found either in the bilateral treaty or in the Romanian law on judicial cooperation (relating to the fact that he has never been on American territory) and that according to Article 2(4) of the Extradition Treaty and Article 20(3) of the Romanian Law, the requested person has never been on American territory. Romanian citizens can be extradited to the USA, even for crimes that were not committed on the territory of this state. It was also held that extradition may not be refused on the grounds of the nationality of the person requested and that it is not necessary to provide an additional guarantee that if he is convicted in the USA he will be transferred to serve his sentence in Romania.

With regard to the alleged violation of the right to a fair trial within the meaning of Article 6 para. 3(c) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Court found that that fact must be analyzed in the light of the case-law of the European Court of Human Rights, in that it is necessary to consider all the proceedings in the case (Imbrioscia, pp. 13-14, § 38 and Murray, pp. 54-55, § 63). Thus, the criminal proceedings against the extraditable person "are still pending before the United States District Court - Hartford, Connecticut in case no. ..., to which the case has been referred for trial, so that it cannot be considered, at this stage of the proceedings, that there has been a violation of Article 6 of the Convention, since the person concerned has the right and opportunity to exercise his rights of defense and to submit evidence, including the right to engage a lawyer of his own choosing or to have one appointed".

With reference to the fact that there is a case pending before the Romanian courts, the judge found that the requested person is an appellant in the case in question and that this is an optional ground for refusing extradition, not a mandatory one, so he ordered that the surrender of the requested person to the American judicial authorities be postponed until the judgment

in the criminal case in question has become final or, in the case of a sentence of imprisonment with custodial sentences, until the extradited person is released from the enforcement warrant to be issued.

In another case (Criminal judgment no. 240/F of 11.12.2020 rendered by the Bucharest Court of Appeal, 2nd Criminal Division, *apud* Pătrăuș 2021, 53 et seq.), the national court found that the opposition lodged by the extraditable person through his lawyer was unfounded and ordered his extradition. The defendant was indicted for conspiracy to commit RICO crimes - Racketeer Influenced and Corrupt Organizations, in violation of 18 U.S.C. § 1962(d); conspiracy to commit wire fraud, in violation of 18 U.S.C. §§ 1349 and 1343; and conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h), and the case is pending in the U.S. District Court. The U.S. District Court for the Eastern District of Kentucky issued a warrant for his arrest on charges that he and others defrauded U.S. citizens by conducting online auctions, i.e., posted fake ads on online and retail sales sites offering for sale luxury items, such as cars, asking interested persons to pay online, which they used to purchase bitcoins or were transferred out of U.S. space.

The person sought, through his lawyer, argued that he had made a request, sent via the embassy, which is not on file and there are no documents showing "assurances deemed sufficient" that he would be transferred to Romania to serve any sentence if found guilty of the charges against him. In support of this part of the opposition, European case-law was relied on, according to which the requested State must verify whether the enforcement of the sentence in the requesting State, in the light of the convicted person's links with his or her national State, would be likely to promote the social reintegration of that person, in that it must apply all the instruments of international cooperation in criminal matters available to it in respect of the requesting non-member State in order to obtain the latter's consent to the enforcement of the sentence in question in its territory, where appropriate after adapting it to the penalty provided for by its criminal law for an offence of the same nature. It was also alleged that the extraditable person did not know until 3 December 2020 about the existence of a criminal case in the U.S., even though the criminal proceedings against him were conducted in 2013-2014, and the arrest warrant was issued in absentia, without his summons.

The Court rejected the defense's request for an address to the US judicial authorities as it did not constitute evidence under Article 49(2) of Law No 302/2004, considering that it was not necessary to obtain additional information. The Court also found that the provisions of Article 5 of Law No 302/2004, which constitutes the common law on the matter for the Romanian judicial authorities, are applicable to the case, as supplemented by the provisions of Law No 111/2008 on the ratification of the Extradition Treaty between Romania and the United States of America. At the same time, the court held that where the law on international judicial cooperation does not provide otherwise, the requests in the matter are executed in accordance with the Romanian rules of criminal procedural law, pursuant to Article 7 of the framework law. As regards the plea of absence of the guarantees provided for by Article 20(2) in conjunction with Article 20 para. 1(a) and (c) of the Framework Law, the court found that those provisions did not apply, since the person sought was not domiciled in the territory of the requesting State at the time of the extradition request and had not committed an act against a citizen of an EU Member State. The court found that the right to a defense had not been infringed, since extradition was requested precisely in order to ensure that the person to be extradited could exercise that right, and that it did not fall within its jurisdiction to examine the legality and necessity of the arrest warrant issued by the US authorities.

Also, in another case (*Ibidem*, Criminal judgment no. 86/F of 08.5.2020 rendered by the Bucharest Court of Appeal, 1st Criminal Division), U.S. judicial authorities have issued an extradition request against a Mexican national for whom a warrant has been issued by the U.S. District Court for the Southern District of Texas for his arrest on January 23, 2020, for the Title 21 offense of conspiracy to possess for the purpose of distribution a controlled

substance, Sections 841(a)(1) and 841(b)(1)(A) of the United States Code committed by the extraditable person, as a high-level member of the Cartel de Jalisco Nueva Generation in Guadalajara, Mexico, between August 2016 and January 2020, in the international trafficking of drugs (amphetamine and cocaine) from Mexico to the United States, New Zealand, and several EU countries. The contents of the request also state that the surrender of property or any documents in the extraditable person's possession is requested.

The Court admitted the request on the grounds that the conditions for extradition set out in Articles 18-35 of Law 302/2004 are met, there being no grounds for refusal, given the provisions of Articles 1-23 of the Extradition Treaty between Romania and the United States, ratified by Law 111/2008.

Whereas, according to the provisions of Article 16 of the Treaty, the handing over of property, documents and evidence in the possession of the extraditable person, on the basis of Article 17(1) and (4) in conjunction with Article 52(1) and (4) of the Treaty, is not subject to the provisions of the Treaty 6 of the Framework Law, the confiscation and handing over of the goods seized from the requested person at the time of detection on the territory of Romania was ordered, according to the report of 9 March 2020 drawn up by the police officers of the General Inspectorate of the Romanian Police - Criminal Investigation Department.

4.2. *Ne bis in idem* principle

According to this principle, provided for in the provisions of Article 8 (1) of Law No 302/2004, republished, no one may be summoned to court again or punished in another criminal action for the same criminal offence for which he has already been convicted or acquitted under the criminal law and procedure of a State. In legal relations with a third State, the provisions of international treaties are applicable, so national rules on the *ne bis in idem* principle cannot be used.

In one judgment (Criminal judgment no. 272/F of 14.6.2013 rendered by the Bucharest Court of Appeal, 2nd Criminal Division, www.rolii.ro), the extraditable person argued that he is facing another criminal trial on similar charges, calling into question the need to request additional information on the case for which the criminal trial is being conducted in the US in order to be able to compare the two criminal activities for which he is being investigated. The requested person also pointed out that the extradition request gives five examples of victims, the facts are described in a way that allows them to be classified according to the Romanian definition: organized criminal group, computer theft, fraud and money laundering; thus, there is no doubt as to the identity of the facts and even if certain material acts are not captured in the Romanian documents, it is a continuous offence and the principle of *non bis idem* is applicable, invoking also the principle of the personality of the criminal law. The court found that the extraditable person is wanted internationally for the offences of conspiracy to participate in an organized criminal group, conspiracy to commit wire fraud, conspiracy to commit money laundering, conspiracy to traffic in counterfeit services, for the execution of an arrest warrant issued on September 16, 2010, by the United States District Court for the Northern District of Ohio. In effect, he and his accomplices ran a complex fraudulent scheme in the Internet marketplace by posting fictitious ads for high-value items on e-commerce platforms such as AutoTrader, where buyers were directed to transfer money even though they were not in possession of the goods for sale. The invoices were forged to appear identical to legitimate payment services containing eBay service marks. He and his accomplices also illegally accessed bank accounts in the United States, fraudulently obtained usernames and passwords to accounts belonging to U.S. companies, and arranged for unauthorized wire transfers to the accounts of accomplices recruited to help launder the funds they controlled, so the indictment contains four counts: conspiracy to commit racketeering, conspiracy to commit wire fraud, conspiracy to launder money, and conspiracy to traffic in counterfeit service marks.

The court found that there was no exact overlap between the facts for which the requested person is being tried in Romania and the facts described in the indictment in the United States. Before analyzing the comparative nature of the charges brought in the two States, it is necessary to specify what needs to be compared in order to clarify the incidence of the *non bis in idem* principle, i.e. to clarify the content of the concept of 'criminal act'. In assessing this question, it is essential to bear in mind that national laws define the concept of 'offence' differently, so that it is clear that any comparison must take account of the 'criminal act' as an objective reality, regardless of the legal framework or the social relationships protected. In that regard, the judge in the case found that the assessment of compliance with the principle of *non bis in idem* between States precluded reference to the national legislation on the continuing offence, in the context in which its uniqueness represents a criminal policy option, a legislative creation by means of which several actions of criminal relevance by a single person are brought together in a single offence.

Consequently, the crucial point is the actual factual situation, namely an event that took place in the past, which has led or will lead to a relevant criminal law result. The criteria to be taken into account are: the place of the act, the time of the act, the object of the act, the course of the action, the perpetrators, the victim, the result produced or which could have been produced, and it was noted that extradition was requested for acts other than those being tried in Romania.

Conclusions

The institution of extradition has been and remains the cornerstone of international judicial cooperation in criminal matters, but it no longer meets the new aspirations of States, particularly as regards preventing and combating crime of all kinds more effectively, but also as regards the speed with which extradition requests are executed. In dealing with extradition requests, the courts take into account the provisions of the bilateral extradition treaties, since under the Agreement concluded between the European Union and the United States of America, the parties ensure that its provisions are applied to the bilateral extradition treaties in force and that any shortcomings in those treaties are remedied. At a time when organized crime is taking on a profound cross-border character and unprecedented mobility, States must ensure that the judicial response is appropriate, regardless of physical and geographical distance, and that international judicial cooperation instruments are primarily designed to avoid the risk of impunity, of course, while respecting all the values and principles of the rule of law and consistent application of the law. Clearly, both contracting parties have the highest values in all areas, including the dispensation of justice, which must be carried out with respect for democratic values, specific to the rule of law and the rule of law, respect for the procedural rights and freedoms of all parties to the proceedings, in order to protect common values, within the limits of respect for jurisdictional competencies. Overall, this article provided a comprehensive examination of the practical implications and challenges related to international extradition agreements, emphasizing the importance of strengthening cooperation in the fight against transnational crime while safeguarding individual rights and legal principles.

References

Agreement on extradition concluded between the U.S. and the E.U., published in the Official Gazette of the E.U. L 181/27 on 19 July 2003.

Bitanga, Marijan, Simona Franguloiu, and Fernando Simona, Sanchez-Hermosilla. 2018. *Guide on the procedural rights of suspected or accused persons: the right to information and the right to translation and interpretation*. Onești: Magic Print Publishing House.

Corlățean, Titus. 2011. Executarea hotărârilor Curții Europene a Drepturilor Omului *(The Execution of the Decisions of the European Court of Human Rights).* Bucharest: Universul Juridic Publishing House.

Corlțean, Titus. 2015. *Protecția europeană și internațională a Drepturilor Omului (The European and International Protection of Human Rights)*, 2nd Edition revised. Bucharest: Universul Juridic Publishing House.

Criminal Judgment no. 194 of 13.12.2011 delivered by the Craiova Court of Appeal, https://www.rolii.ro.

Criminal Judgment no. 272/F of 14.6.2013 rendered by the Bucharest Court of Appeal, 2nd Criminal Division, www.rolii.ro.

Eur-lex. 2019. "Agreement with the United States on extradition." Available at https://eur-lex.europa.eu/RO/legal-content/summary/agreement-with-the-united-states-on-extradition.html

Extradition Treaty between Romania and the United States of America, signed in Bucharest on 10 September 2007, ratified by Law no. 115 of 2008, published in the Official Gazette of Romania no. 387 of 21 May 2008.

Imbroscia c. Switzerland, cause 13972/88, Decision of November 24, 1993.

J.Murray c Țările de Jos, 10511/10, Decision of April 26, 2016.

Law No 302 of 2004 on international judicial cooperation, republished in the Official Gazette of Romania No 1.110 of 17.11.2022.

Pătrăuș, Mihaela. 2021. *International judicial cooperation in criminal matters. Compendium, Legislation, doctrine, European and national case law*. Bucharest, Romania: Universul Juridic Publishing House.

Rusu, Ioan, Bălan-Rusu, and Minodora Ioana. 2013. *The European Arrest Warrant, Romanian and European Legislation, Doctrine and Jurisprudence*. Germany, Danubius University of Galati: LAP LAMBERT Academic Publishing.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310131

Child Friendly City: The Case of Istanbul

Özgür Sarı

Prof. Dr. and the Department Chair, Sinop University/Sociology Department, Turkey
sosyologozgur@gmail.com

ABSTRACT: Today, the number of cities participating in the child-friendly city movement is increasing both around the world and in Turkey. The main reason for this trend is the concern of creating a city image. In today's neo-liberal policies and global economy, cities have become competing actors alongside national economies. In order for a city to be privileged in this competitive environment, it must be different and attractive from other cities. For this reason, it has become popular to participate in the child-friendly city process today. The new criteria, which were blended based on the Netherlands Delft-based KISS, the South African Republic Johannesburg-based Chawla criteria, and the Francis and Lorenzo criteria, were as follows: The common and most basic criterion in all criteria is security. It is important that the city in which it is located is safe above all else. It is extremely important that children and parents feel safe in the relevant space. Therefore, the first criterion is the distance from the dangers and the safety criterion. The second important criterion is the existence of clean environment and green areas, which are as vital as security. The third common criterion is the existence of play, socialization and activity areas. The fourth criterion is accessibility and freedom of movement, and the fifth criterion is the existence of suitable, safe and accessible transportation routes, pedestrian paths and bicycle paths. Within the framework of the common criteria determined, 171 people were interviewed in game parks across Istanbul. Face-to-face interviews were conducted with 171 parents who were randomly selected. During the interviews, seven demographic questions, seven open-ended questions, and five Likert-style test questions were presesnted. The results were thematically analyzed to understand whether Istanbul is a child-friendly city or not. It has been discussed what deficiencies exist for Istanbul and what needs to be done to meet the criteria.

KEYWORDS: Child Friendly Cities Initiative, Delft Criteria, Chawla Criteria

The Criteria for Child Friendly City

In order to understand whether a city is child-friendly and to evaluate the suitability of urban spaces for the use and development of children, as well as the overall livability of the city for children, it is necessary to analyze the use and development of urban spaces, especially streets, parks, and shopping centers. It is necessary to analyze whether they are suitable or not. There are also studies that analyze the general state of the city.

Bornat and Shaw (2019) conducted a study in which they categorized children into groups based on their age: pre-school (ages 0-5), school-age children (ages 5-12), and older children. The study presented a set of criteria to determine whether a city is child-friendly or not. These criteria include going to school, visiting areas, passageways, cycling, playgrounds and a sense of security.

The first criterion is whether children can reach school safely and comfortably in less time. Today, a significant part of children's daily lives is spent at school. Transportation to school has become an important issue in cities, since it has become one of the most important infrastructure problems of cities today. Parents are most worried when children go to school and return home at the end of school, because, children who dive into the city spaces and interact with the citizens during their transportation to school, away from their parents, are exposed to “danger”. What might happen to them on the way to school or on the way home is always a concern. The roads where children reach school should be illuminated with traffic lights and lighting lamps, away from criminals, such as addicts or beggars, and equipped with walking and bicycle paths for children. In addition, these roads must be suitable for the use of children. Again, according to the crossing road criteria specified in this study, the roads must

be in a condition that can be passed or used by children. Presence of traffic signs and signs indicating that children will pass in front of the school, the presence of pedestrian priority passage lanes, the preparation of mechanisms that can be used by children with buttons suitable for their height are perhaps small but very important and vital elements. The existence of safe bicycle paths, which is a subject of transportation, is also a determined criterion. The existence of safe and accessible bicycle paths for children is an important criterion in child-friendly cities. Today, the roads of cities are allocated to motor vehicles. It is probably because the automotive industry, one of the mass production industries that developed rapidly after the 1950s, forced us to design our cities not as our living spaces, but in accordance with the invasion of motor vehicles. Although bicycle paths have started to be built, today's cities are still not at a sufficient level in terms of bicycle paths.

The criterion of visiting areas is whether there are suitable visiting areas for children outside of school, especially for games, activities, courses or shopping. It is also important to have suitable places or institutions in the city for activities that will contribute to a child's socio-cultural and psychological development, from zoos to science parks, from museums to activity courses. Today, it is seen that families have difficulty in finding an activity to take their children and spend time in our cities, which are invaded by shopping centers.

Playgrounds and green spaces are places that have no monetary return in today's capitalism. For this reason, in our cities under the invasion of the construction and housing industry, the spaces to be allocated for green areas and playgrounds are seen as "monetary loss". As a result, we sacrifice our green areas and playgrounds to the rent economy and the housing industry. Our cities lack adequate, accessible and safe green spaces and playgrounds for children. Therefore, families who prefer complex life, living in closed residences and residences built as sites, prefer these expensive residences because of the green areas and playgrounds for their children. However, this situation is far from being accessible to all the public and playgrounds for all children (Alver 2010).

Cities are also areas where crime and immigration are clustered. In cities where social control is reduced, spatial areas where crime is clustered pose a danger, especially for children. The main concern of parents today is the safety of their children. In the spatial use of the city, safety has become an important criterion for children who will spend many daily activities such as playing games, going to school, participating in events, riding a bicycle outside their home (Sarı 2013).

Today, the number of cities participating in the child-friendly city movement is increasing both in the world and in Turkey. The main reason is the concern of creating a city image. In today's neo-liberal policies and global economy, cities have become competing actors alongside national economies. In order for a city to be privileged in this competitive environment, it must be different and attractive from other cities. For this reason, it has become popular to participate in the child-friendly city process today. In this process, the project covering the period of 2006-2010 signed between the Government of the Republic of Turkey and UNICEF was the beginning (Topsümer et al. 2009, 13).

UNICEF has determined thematic areas in the context of the Child Friendly Cities Initiative. Participation, education, safety, health, environment, inclusion, creativity, play/leisure and migration under the themes of child-friendly cities. This approach, which has a very broad and holistic perspective, also includes fundamental rights from health and education to the environment (UNICEF 2004).

In the light of these themes, studies to determine more specific criteria continued. According to what specific criteria can we count a city as a child-friendly city? One of the studies seeking answers to this is the Chawla criteria, which emerged from the city of Johannesburg, Republic of South Africa (Chawla 2002). According to Cahwla, there are six important criteria: existence of green space, existence of behavioural environments, existence of activity areas, possibility to move freely, safe and away from danger, existence of assembly

area (Chawla 2002). Another study in this area is the work of Francis and Lorenzo. The criteria named in the literature as Francis and Lorenzo criteria are accessibility, mixed use and socialization, small-applicable-flexible, natural and environmentally sensitive, identity, participatory (Francis and Lorenzo 2006). Another study from Delft, the Netherlands, developed the Delft criteria. The criteria in the form of safety, walkability, cycling, enabling cross-overs, places to enjoy and playability were named Kids Street Scan (KISS) and mainly focused on making roads healthy and accessible for children (The Delft Manifesto 2017). Their particular emphasis on the cycling criterion is due to the widespread use of bicycles in the Netherlands. In this study, a new list of criteria was created by bringing together the criteria mentioned above and reducing the common ones to one. As a result of the common criteria, the questions asked to families in cities all over Turkey were given points on whether the cities are child-friendly or not. An average score of each city has emerged and the official figure of the whole of Turkey has been determined. In scoring between 1 and 5, 1 and 2 points are shown in red and are cities that are far from being child-friendly. Those with 3 points are the middle-level cities, which are shown in yellow and can be child-friendly with some adjustments. Cities with 4 and 5 points are child-friendly cities and are the most suitable cities for children to live in and are shown in green.

The new criteria, which were blended based on the Netherlands Delft-based KISS, the South African Republic Johannesburg-based Chawla criteria, and the Francis and Lorenzo criteria, were as follows: The common and most basic criterion in all criteria is security. It is important that the city in which it is located is safe above all else. It is extremely important that children and parents feel safe in the relevant space. Therefore, the first criterion is the distance from the dangers and the safety criterion. The second important criterion is the existence of clean environment and green areas, which are as vital as security. The third common criterion is the existence of play, socialization and activity areas. The fourth criterion is accessibility and freedom of movement, and the fifth criterion is the existence of suitable, safe and accessible transportation routes, pedestrian paths, and bicycles.

Methodology

Interviews were conducted with 171 people randomly selected from mothers and fathers who spend time with their children in playgrounds located in different parts of Istanbul. In the questionnaire used in the interviews, seven demographic questions, seven open-ended interview questions and five survey questions prepared according to the Likert technique were asked.

In demographic questions, the person's mother or father, age, occupation, education level, neighborhood, the gender and age of the child were asked. In order to find out whether the city they live in is suitable for their children, seven questions were asked. These questions are aimed at learning their thoughts on whether the city they live in is suitable for their children in terms of transportation, safety and leisure activities. In addition, a seven-question survey prepared with the Likert method was directed to measure how the city they live in is in terms of security, cleanliness, accessibility, freedom of movement, play and activity.

While preparing the questions, previous studies and criteria used in this field were used. Chawla and Delft criteria, which have been previously applied and tested for reliability, were blended. Among the people in the sample, 31 people are men and 140 people are women. The age of the parents is the youngest, 23 years old, and the oldest, 51 years old. Parents differed between primary school graduates and university graduates according to their educational status. While all male parents are working, the majority of female parents are housewives. Parents were also asked about their child's age and gender. The youngest child is one year old and the oldest is 14. Ninety-eight of the parents came to the park with their boys, while 73 of them came with their girls.

Findings

Five survey questions prepared with the Likert technique were asked to the interviewees:

1) The city I live in is safe and far from dangers for my child.

2) There is enough clean environment and green space for my child in the city where I live.

3) There are enough playgrounds, activities and socialization areas for my child in the city where I live.

4) My child can move freely in the city where I live.

5) In the city where I live, there are enough suitable, safe and accessible transportation opportunities for my child, pedestrian paths and bicycle paths.

They were asked to rate these statements between one and five. Families were asked to score these statements, with one being the most negative and five being the most positive.

As a result, all families gave one or two points for these statements, sugesting that Istanbul, is not considered a livable city for children. Families cited a lack of clean environment, green areas, bicycle and pedestrian paths, playgrounds and socialization areas for children. Also, in terms of transportation and security, Istanbul is not a suitable city for children.

In addition, families were asked seven open-ended questions:

1) Do you worry about your child going to school and returning home? If you're worried why? What are the negativities or dangers during going to school and returning home?

2) Do you think that your child can walk or cycle comfortably on the roads in your neighborhood? What disadvantages or dangers do the roads contain for your child?

3) What kind of activities do you take your child to outside of school and home? Are there enough places for leisure activities in your area (zoo, water park, science park, museum, etc.)? Or which places would you like to have?

4) Do you feel that the city you live in is safe enough for your child? If yes, in what way is it safe? If your answer is no, what kind of dangers exist for your child in the city?

5) Do you find your city clean enough for your child? If not, what problems are there? In what ways do you not find it clean?

6) Are green areas sufficient in your city?

7) What do you want to add about the subject?

Only 18 of the families stated that the green areas and socialization activities in their neighborhood are partially sufficient, the neighborhood they live in is partially safe and clean for their children, and the transportation facilities are partially sufficient. They stated that the neighborhoods they live in are more elite than the general of Istanbul and have a socio-economic status above the average. For this reason, they gave a partially positive opinion about their own neighborhoods. However, his thoughts about Istanbul in general were completely negative.

Conclusion

In conclusion, Istanbul, Turkey's largest city, is a metropolis that has experienced an unhealthy urbanization and growth process as a result of its population exceeding 16 million and the rapid immigration it has received. It is understood that the city, which is struggling with many infrastructure, social, economic and environmental problems, is a difficult city to live in for families with children.

Istanbul is far from meeting criteria such as Chawla criteria or Delft criteria, which are internationally determined criteria for a child-friendly city, is a city that is not suitable for the healthy development of children.

Parents who participated in the study also stated this situation, noting that Istanbul is not a suitable city for raising children. Parents have a hard time raising their children, sending them to school, and making them do leisure time activities outside of school. Moreover, they do not find the city's environment clean enough for their children's healthy development.

The Child Friendly City Criteria convincingly argues that cities should integrate trees and natural spaces at many scales, from the landscaping of homes, schools, and childcare centers to connected city pathways, greenways, parks, and "rough ground" systems for children's creative play. For local governments avoiding the cost of making arrangements for children only, it is recommended that all-generational arrangements be made. In this way, intergenerational interaction is also ensured. Intergenerational interaction is also important for the social and psychological development of children. In order to achieve these, both central and local governments and non-governmental organizations must act jointly and in coordination. It is also important to check and monitor that the criteria are met. Unfortunately, creating livable cities, especially green spaces, is sacrificed to global and liberal policies today. Because urban lands whet the appetite of companies for rent (Van Vliet & Karsten, 2015).

References

Alver, Köksal. 2010. *Siteril Hayatlar*. Ankara: Hece Yayınları.

Bornat, Dinah & Shaw Ben. 2919. *Neighborhood Design-Working with Children Towards a Child Friendly City*. London: 7D Architects & University of Westminster.

Chawla, Louise. 2002. "Growing Up in an Urbanising World, UNESCO-Management of of Socal Transformations Program." London: Earthscan.

Francis, Mark & Lorenzo Ray. 2006. "Children and City Design: Proactive Process and the Renewal of Childhood." In *Children and Their Environments: Learning, Using and Designing Spaces*, 217-237. Cambridge: Cambridge University Press.

Sari, Özgür. 2013. "Suç ve Kent." In *Suçun Sosyolojisi-Cezanın Felsefesi,* edited by Özgür Sari & Güncel Önkal. Ankara: Nobel Yayınevi.

Topsümer, Füsun. 2009. "Şehir ve Çocuk: Çocuk Dostu Şehir Girişiminin Şehir İmajına Katkısı." *İstanbul Ü. İletişim F. Dergisi* 35: 5-20.

Thoreau, Henry David. 2016. "Walking." In *The Making of the American Essay*, edited by John D'Agata, 167–95. Minneapolis: Graywolf Press.

UNICEF, 2004. "The State of the World's Children 2004." UNICEF House, 3 UN Plaza, New York, NY 10017, USA.

Van Vliet, Willem & Karsten, Lia. 2015. "Child-Friendly Cities in a Globalizing World: Different Approaches and a Typology of Children's Roles". Children, Youth & Environments 25(2), 1-15.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES
August 3-4, 2023

DOI:10.5281/zenodo.8310135

Considerations on Combating Money Laundry in the Field of Crypto-Assets, at European Union Level

Carmina-Elena Tolbaru

Lecturer PhD, The National University of Science and Technology POLITEHNICA Bucharest, Pitesti University Center, Romania, carmina.tolbaru@gmail.com

ABSTRACT: Money laundry is a boosting phenomenon worldwide, affecting multiple domains of social life, and we need sustainable efforts to hinder the actions committed by offenders to hide the profits obtained from their offences. The complexity and magnitude of this phenomenon taking place at present is explained within the context of growth of technology, which opens new horizons concerning offence-related opportunities. Thus, offences such as tax evasion, financing terrorist organisations, drug trafficking, corruption, frauds, as well as any other illegal financial activities, are committed regarding the offence of money laundry, witnessing a form of organised cross-border criminality. Starting in 2021, the rate of illegal use of crypto currencies for the purpose of money laundry has registered a significant growth, which made the European Union establish a new regulation framework in the field of combating money laundry, extending the field of application of rules to crypto-assets transfers. This paper analyzes the growing global phenomenon of the use of crypto-assets for criminal purposes, examines the regulatory framework in the European Union, and provides practical recommendations that can help prevent and combat money laundering.

KEYWORDS: money laundry, offenders, organised crime, crypto-assets, European rules

Introduction

Practical reality shows us an innovative facet of the phenomenon of money laundry, in terms of adjustment of a contemporary strategy in matter of illegal verification of the field of crypto-assets, the Europol studies revealing the amplitude of criminal activities regarding the illicit use of crypto currencies. Although the crypto currencies represent a technical innovation, at present being an extensive means of payment, of investment and of transfer of funds, their use for a crime-related purpose has become a practice in the absence of an efficient regulation. Usually, the illegal use of crypto currencies is associated with money laundry, the offenders showing ingenuity and refinement, taking advantage of technological innovation. The main "quality" of crypto currencies that offenders exploit illegally is that they ensure the illegal and anonymous transfer of value. In considering the wide field of crypto-assets, ensuring a transparent and safe economic and financial environment is a serious concern at the European Union level, the Commission analysing the implications of the crypto-assets in the crime-related sector.

Clarifications regarding the field of crypto-assets

In the 2023/1114 (EU) Regulation on markets in crypto-assets, the rules refer to the notion of crypto-assets as being defined as digital representations of value or rights which may be transferred and stored electronically, using distributed ledger technology or similar technology (OJ, L 150/40, 2023, 41). As an example, we mention the blockchain technology which stores transactions in blocks by knots linked together by cryptography (Mehedințu and Georgescu 2023, 9). Thus, blockchain should be understood as a database, like a decentralised public registry, situated outside the action area of a central authority or of a go-between, in which there is registered information about the transactions made within such blockchain (Bamakan, Motavali and Bondarti 2020, 2), thus ensuring the transparency and integrity of internet transactions. Therefore, the blockchain is a transaction database, based on cryptography, using specific mathematical algorithms in order to create and verify a data structure which increases continuously, as other data can be added constantly, without being

able to delete them. Blockchain represents a distributed ledger held by every crypto-asset owner and updated with every transaction (Radu 2022, 17). This means that the blockchain has transparency as a feature, meaning that any transaction made within a blockchain, regardless of the moment of taking place and of the passage of time, can be tracked, allowing the identification of suspect models and behaviours. However, the field of crypto-assets represents a true crime-related ground, both crypto currencies and the other types of crypto-assets facilitating the activities specific to money laundry.

Thus, crypto-assets aim at a wide range of digital values which use cryptography that we can classify into three main categories, with reference to the functions they fulfil (Zlati 2021, 21-26):

- Crypto-assets used mainly as exchange means – being used to purchase goods and services from natural persons or merchants that accept such virtual currency as counter value (bitcoin, ether, Litecoin etc.);
- Utilitarian or utility crypto-assets – token allowing holders the right to access a platform/application, to use a certain service, or to purchase goods or services under preferential conditions;
- Crypto-assets with investment purposes – being equivalent to stocks, bonds or derived agreements, because they promise the investor future financial benefits resulted from the mere ownership of the crypto-asset.

Therefore, the legal framework in the matter should cover all the crime-related activities made through crypto-assets, each of them having its own characteristics and implications, from a legal point of view (Ionescu and Chiperi 2022, 10-18).

Crypto-assets and their potential criminality

Generally, crypto-assets include features regarding scalability, in terms of the number of transactions that can be processed within a certain time frame, and at the same time by a certain degree of anonymity, in relation to the blockchain used and the typology of the digital wallet used (Zlati 2021, 21-26). In this context, the crypto-assets have generated an outbreak of criminality. In the category of crypto-assets, crypto currencies are the most widespread means of payment, of investment and of transfer of funds, thus holding the highest rate among the money laundry offences. This field was harnessed by offenders, who exploited it to the full, the crypto-assets being used more and more in the criminal activity, both as an object of the offence, and as its product (Covolo 2019, 6).

Practical reality shows that we face a serious technological phenomenon, which is growing through the massive use of crypto-assets, especially by cyber-offenders, and we wish to list a few illegal operations, in order to reveal their criminal potential. Activities that are deemed as such (Zlati 2022, 10-69):

- mining virtual currencies, by the clandestine use of the power of processing the information systems (cryptojacking);
- obtaining virtual currency by blackmail (ransomware);
- obtaining virtual currency by fraud;
- unauthorised transfer of virtual currency and other crypto-assets;
- restraining access to virtual currency;
- identity fraud as a means of misleading;
- forgery of virtual currency;
- embezzlement of virtual currency transferred by mistake to another public address from the blockchain;
- money laundry – in terms of virtual currency, as well as other crypto-assets.

Money laundry has always existed and has covered different criminal forms, but globalisation, besides its undeniable benefits, has been the main indicator of growth of

criminality, especially the cross border one, the organised one. The problem at present and in this context is to regulate a legal framework that would control the abusive use of crypto-assets, without jeopardizing the evolution of the digital era. Undoubtedly, crypto currencies are the main target for the offenders. On top, there are indeed the cybercrimes, such as hacking, ransomware or cryptojacking, which raise real concerns in the field of cyber security, but we have to understand that money laundry is committed in relation to many offences from the organised crime sector, such as tax evasion, financing terrorist organisations, drug trafficking, corruption, frauds, as well as any other illegal financial activities committed in connection with money laundry offences.

In such a context, the concept of cryptographic criminality arises, concept used in connection with crypto-assets, the main risk in using crypto-assets being money laundry. Such a risk occurs as being generated by the fact that they allow transfers of assets, some of them pseudo-anonimous (bitcoin), some other anonymous (monero), outside central entity of control. There is a series of advantages of using crypto-assets for money laundry purposes (Puertas 2019, 25-27):

- hiding a cryptographic key is performed much easier than in the case of using cash;
- it assures a faster and safer way regarding the transfer of the value across borders;
- crypto-assets represent a good instrument for illegal investments;
- cryptographic wallets are outside the bank account files or other similar accounts.

In practice, when using crypto-assets, there is a series of behaviours and transactions that can raise suspicions, in identifying the suspect activities being able to apply specific identification principles and methods (Mehedințu and Georgescu 2023, 16):

- monitoring transactions – analyse the volume and frequency of transactions, of their value, and the participants involved;
- getting to know the clientele (know your client) – i.e., obtaining information regarding the identity of clients, purpose of transactions and source of the funds involved;
- analysing the transactions of a client by reference to his/her usual transaction profile - they analyse, by comparison, all the characteristics of the transactions and the previous behaviour of the client;
- collaboration and exchange of information between the reporting entities and the regulatory authorities – reporting the suspect transactions and sharing the relevant data.

The organisations specialised in fighting money laundry in the field of crypto-assets admit the challenges they are subjected to, by the difficulties they face in pursuing illegal activities, which should be constantly adapted to the *modus operandi* of digital offenders. The rapid evolution of technology imposes an adjustment of the suspicion indicators used to identify the behaviours that can be associated with illegal activities (Mehedințu and Georgescu 2023, 17):

- high-value transactions – which indicate the suspicion of existence of some illegal activities or the intention to hide illicit funds;
- transactions which involve frequent and rapid transfers of crypto-assets – which may indicate the attempt to hide the origin and destination of funds;
- frequent use of crypto tumblers – which allow the mix of crypto-assets by combining and mixing multiple transactions, which makes it difficult to identify the origin of funds;
- transfers towards unknown or suspect addresses – these being associated with illegal activities, such as dark web or ransomware;
- transactions towards states with weak or inexistent jurisdictions – the illicit funds being outside the regulation area.

The Europol studies has registered an increased growth of usage of cryptocurrencies in the money laundry schemes, showing that all criminal profiles are laundered with the help of crypto currencies (Europol 2021, 11). For offenders, cryptocurrencies are a means of payment for the purchase of illegal goods and services, such as drugs or materials of sexual abuse on

children, especially on darkweb-type markets. The phenomenon itself shows two types of entities and chain entities:

- the use of intermediary services and wallets (self-wallets, mixers, dark-net markets, and any other services, both licit and illicit. Such services are used by offenders to hold funds temporarily, to hide fund movements or to exchange assets;
- the fiat off-ramps – refer to services which allow the exchange of cryptocurrencies for fiat currency, this being the most important component in the process of money laundry and at the same time, a real threat for the entire crypto industry, from the perspective of illicit exchanges taking place on decentralised exchange platforms.

Enhancement of the European Union efforts in fighting against money laundry and financing terrorism

The concern for prevention of and fight against money laundry is a priority for all states of the world. According to the studies performed by Europol, in absence of legal regulation, the use of crypto-assets in criminal purposes has increased, being generated naturally by the significant growth of the use of crypto-assets amongst population (Europol 2021, p. 4). The phenomenon is spreading out of control, not being able to really be scaled, in terms of the characteristics regarding the anonymity of crypto-assets, which makes the fight against the abusive use of crypto-assets be one of the main priorities at European Union level. An important step in this regard is represented by the new rules targeting the crypto-assets markets and the transfer of funds, for a better financial transparency concerning the exchanges of crypto-assets. The necessity to solve this problematic issue occurs in the context where some exchange platforms do not allow the verification of the identity of users and of the transactions made by them, not being equipped with reporting procedures. From here, the necessity to implement some mechanisms of identification of users, of reporting the transactions made and of verifying them (Hegheș 2023, 41-42).

Within the context of fighting against money laundry with the help of crypto-assets, the Council of the European Union takes a stand for the measures that should be imposed in the crypto industry, by adopting new regulations to ensure the traceability of the crypto-asset transfers. In this field, the legislative proposals had as a starting point the fight against money laundry and financing terrorism, by the Directive (EU) 2015/849 on the prevention of use of the financial system for the purpose of money laundry or terrorist financing, document that has suffered significant amendments.

The reform of the European legal framework is based mainly on the obligation of crypto-assets service providers to collect ant to submit information regarding the initiator and the beneficiary of the transfers of crypto-assets made, so that suspect transactions may be identified and blocked. The assurance of the financial transparency concerning the exchanges of crypto-assets at the European Union level has in view the introduction of some ”travel rules” that should meet the requirements of the International Financial Action Task Force (FATF), a supervision body at world level in the field of money laundry and terrorist financing. Recently, they have published two extremely relevant regulations in the area of combating money laundry in the field of crypto-assets, i.e., (UE) Regulation 2023/1113 on the transfer of funds and (UE) Regulation 2023/1114 on markets in crypto-assets, in order to reduce the anonymity criteria.

Largely, (UE) Regulation 2023/1113 comes to complement the enforcement of FATF recommendations at world level, regarding the risks of money laundry and terrorist financing when virtual transfers or assets are transferred. An adjustment of the new regulation to the typologies of crypto criminality refers to the crypto ATMs which allow the users to make crypto-asset transfers towards an address for crypto-assets, by depositing of cash, often without any form of identification and verification of clients. By the anonymity offered by such ATMs in the performance of the crypto-assets transfers, by the fact that they offer the

possibility to operate with cash of unknown origin, they represent an ideal instrument for illicit activities, mainly in money laundry and terrorist financing. Therefore, the crypto-assets transfers related to crypto ATMs fall under the new regulation.

In considering the chain of payments and of crypto-assets transfers, the providers of payment services have the obligation to collect information regarding the payer and the beneficiary of the payment, and the providers of crypto-assets services have the obligation to make sure that the crypto-assets transfers are accompanied by information regarding the initiator and the beneficiary. In this context, it is imposed the obligation to check the accuracy of the information regarding the payer or the beneficiary of the payment in case of the transfers of funds exceeding the amount of EUR 1,000. The international cooperation within FATF involve high standards in the field of money laundry and terrorist financing, in this context having the answer of the European Union, by establishing a solid framework, by extending the field of application of the already existing rules to the crypto-assets transfers. Thus, the provisions of (UE) Regulation 2023/1114 on markets in crypto-assets target a wider range of providers of crypto-asset services than the ones the (EU) Directive 2015/849 used to refer to in the first instance, the obligations targeting both traditional institutions from the financial sector, and at the same time the new cryptographic actors, too, including the ones providing services related to crypto-assets within the European Union. By this regulation, the Member States have the obligation to implement into their legislation the new legal framework, applicable in 2024.

Conclusions

The technological advancement and the adjustment of criminal typologies to the dynamics of market digitalisation, is for offenders a breeding ground to exploit for criminal purpose, which implies strategic intervention on behalf of the regulatory authorities. The threats are bigger and bigger towards the economy and the financial integrity of any state, and the amplitude of the cases regarding money laundry by use of crypto-assets has become worrisome, especially since they enjoy covering worldwide. The unique characteristics of crypto-assets make them extremely vulnerable and, at the same time, attractive to be used for criminal purposes, this cryptographic creation generating typologies specific to money laundry. The biggest challenge lies in the anonymity of the ”crypto-creator”, the virtual asset transfers allowing themselves the anonymity, and also in the fact that cryptographic technology allows the rapid performance of transactions, the big money laundry schemes including thousands of transfer at a low cost. It is in the best interest to be aware of the cross-border aspect of this type of criminality, especially the risks presented by the abusive use of virtual assets for the purpose of money laundry and terrorist financing, which requires that the new standards imposed by the European Union be complied with and ensured worldwide.

References

Bamakan, S.M. Hoseeini, Motavali Amirhossein, and A. Babaei Bondarti. 2020. “A survey of blockchain consensus algorithms performance evaluation criteria.” *Expert Systems with Applications* 154(10):113385. DOI: 10.1016/j.eswa.2020.113385.

Covolo, Valentina. 2019. “The EU Response to Criminal Misuse of Cryptocurrencies: The Young, already Outdated 5th Anti- Money Laundering Directive.” *University of Luxemburg Law Working Paper Series* 2019-015:1-24. delivery.php (ssrn.com).

Chainanalysis. 2022. Crypto Money Laundering: Four Exchange Deposit Addresses Received Over $1 Billion in Illicit Funds in 2022. Crypto Money Laundering: Four Exchange Deposit Addresses Received Over $1 Billion in Illicit Funds in 2022 - Chainalysis.

Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ L 141, 5.06.2015, pp. 73-117).

Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering

or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.06.2018, pp. 43-74).

Europol. 2021. *Cryptocurrencies - Tracing the evolution of criminal finances*. *Europol Spotlight Report series*. Luxembourg: Publications Office of the European Union. Europol Spotlight - Cryptocurrencies - Tracing the evolution of criminal finances.pdf (europa.eu).

Hegheș, Nicoleta-Elena. 2023. "Biometric Identification: Opportunities and Challenges in the Digital World". *Proceedings of the 31st International RAIS Conference on Social Sciences and Humanities*, April 6-7: 40-44, Cambridge, MA: The Scientific Press. DOI:10.5281/zenodo.7900818.

Houben, Robby, and Alexander Snyers. 2018. *Cryptocurrencies and blockchain - Legal context and implications for financial crime, money laundering and tax evasion*. Bussels: European Parlament. Cryptocurrencies and blockchain (europa.eu).

Ionescu, Adina-Mihaela, and Simona-Daniela Chiperi. 2022. "Token qualification by assessing whether they can be defined as security tokens or utility tokens." *Penalmente Relevant II:*10-18.1.pdf (penalmente.ro).

Mehedințu, Mihai, and Irina-Anca Georgescu. 2023. *Ghid privind indicatori de suspiciune și tipologii de spălare a banilor în domeniul cripto-activelor*. Bucharest: National Office for the Prevention and Combating of Money Laundering.

Puertas, Alexandra. 2019. *La lutte contre le blanchiment de capitaux a l'epreuve des crypto-actifs*. Paris: Universite Paris. Universite du Luxembourg - The EU Response to Criminal of Crytpocurrencies - 2019 Dec.pdf (theblockchaintest.com).

Radu, Bogdan. 2022. "Cryptocurrency – Nascent Regulation and Challenges for Romania". *Proceedings of the 26th International RAIS Conference on Social Sciences and Humanities*, February 27-28: 16-20, Cambridge, MA: The Scientific Press. DOI: 10.5281/zenodo.6414772.

Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 (OJ L 150, 9.06.2023, pp, 1-39).

Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 2023, 9.06.2023, pp. 40-205).

Zlati, George. 2021. "Blockchain technology, virtual currencies and criminal law." *Penalmente Relevant I:10-69.* 1.pdf (penalmente.ro).

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES

DOI:10.5281/zenodo.8310137

Reflections on the Inadvertence between the Ethical Axioms – Integrity and Corruption

Bogdan David

Associate Professor, PhD, "Dimitrie Cantemir" Christian University of Bucharest, Faculty of Juridical and Administrative Sciences, Bucharest, Romania, asr.bogdan@yahoo.com

ABSTRACT: Starting from the principle according to which ethics itself is a somewhat paradoxical "science", an unusual mixture of contingency and universality, aiming at wisdom (phrónesis) rather than science itself (Pleșu 1994, 10), the present approach represents an action nyptic to signal, like axiology, the relations of mutual hostility between the ethical-integrity axiom and the phenomenon of corruption. We believe that it is inescapably necessary to draw attention to the facts of general inadvertence of immoral conduct towards ethical attitudes and professional integrity related to all fields of activity, but especially to the fields of education and justice.

KEYWORDS: Ethics, morals, professional integrity, corruption, education, justice

1. Ethics-Professional Integrity Axiom

We note with regret, that the ability to distinguish between good and bad, between vice and virtue, justice and injustice seems to be within everyone's reach. *"In terms of ethics, we constantly operate through an indestructible self-complacency. We live in a baroque inflation of moral competence, in a world whose main disorder risks being the fact that all its members feel morally in order, or that all feel their own disorder as negligible"* (Plesu 1994, 9).

As an abstract thought, in ethics there are no categorical laws and there is no order, there are only actions congruent with an ethical current and incongruent attitudes, but there are cases where ethics has moral value and morality has ethical value. In Kantian ethics, some actions can be labelled as bad regardless of the consequences, and the categorical imperative (inexorability) has similar connotations to commandments in Christianity.

It has been observed that any form of human behavior contains moral problems focused on value judgments regarding the different degrees of "goodness" and "evil", of "correctness" and "incorrectness", of "justice" and "injustice" in human conduct (Pivniceru and Luca 2008, 3). As a human valence, ethics does not urge us to close our eyes and pass over such situations, but, on the contrary, it teaches us *to reflect on our* (or others') posture as amoralists, so that we know how to better establish morality. In such a way, it is possible to discover that morality is a prerogative of man, because he is a rational being and, equally, because *"rationality always involves affectivity, sympathetic relationships both with oneself, with one's peers, and and with everything that exists or can exist in the world."* (Sârbu 2005, 83-85). However, when we talk about moral judgment, this represents a point of view related to personal facts or the facts of others, assessments based on the valorization of the requirements of personal and community good.

The difficulties facing moral judgment should not lead to the conclusion that it is difficult to formulate or almost impossible. *The act of moral judgment* requires discipline and responsibility towards obligations and rights, towards permissions and prohibitions. There is also a need for the coherent articulation of the hierarchy of moral values, a fact that allows the rejection of relativism.

Professional ethics are actually based on a set of principles that are meant to help us govern our decision-making process and distinguish right from wrong. These are established through a code of ethics, these principles present the mission and values of an organization, the way in which the professionals within the organization must approach the problems and the standards to which they are engaged (Gașițoi 2021) members of a society.

Integrity is the foundation of a successful relationship by promoting a professional culture where individuals can depend on each other and treat each other with respect. As a result, people are usually more productive and motivated at work.

Integrity is acting in an honorable manner, even when no one is watching. People with integrity follow moral and ethical principles in all aspects of life, not just at work. When the person has integrity they are better equipped to provide high quality service and maintain a positive reputation. When the person you work with has integrity, you can trust that they will work diligently in people's interests (Gașițoi 2021).

In the judicial field, it is important to emphasize that the understanding of the role of the judiciary in democratic states, especially the awareness that the judge's responsibility is to apply the law in a fair and impartial way, without taking into account possible social or political pressures, varies considerably in different states, and the level of confidence in the system's activity is consequently diverse. Proper information about the functions of the judiciary and its role can effectively contribute to increasing the degree of understanding of courts and prosecutors' offices as the basis of democratic constitutional systems, as well as the limits of their activities. These principles are intended to support the representatives of the other powers of the state, the participants in the process and the public, in understanding the nature and specifics of the judicial power, the high standards of conduct that judges must maintain both within the courts and outside them, such as and constraints in the exercise of judicial functions, in social and private life (Scrigroup.com n.d).

2. Corruption - Ethics Antigonism

Ethics and integrity are attributes of fairness and justice. The components of integrity are honesty and professional morality. Both the teacher and the magistrate must always act honorably, not only in the performance of professional duties and in a manner suitable for the didactic or judicial function, not to be involved in acts of corruption. It is considered that there are no degrees of integrity by definition; it is absolute or absent. In academia and the judiciary, integrity is more than a virtue, it is a necessity.

Society and the members of each profession enter into an unwritten social contract, whereby the members of the profession agree to renounce some narrow interests, promote the ideals of public service, and adhere to high standards of activity, while society allows the profession substantial autonomy to self-regulation. The ethics of a profession describes the specific duties assumed by its members through social contact (Hamilton 2002, 3).

Both in the university and in the judicial environment there are "temptations" that can divert the magistrate or teacher from normal professional conduct. That is why the choice and exercise of these professions must be made from intrinsic convictions and passion and not from desired materials. For academia, the professor must be more than a teacher, he must also be an example of morality and behavior for students. Interests of a pecuniary nature have no place in this professional environment. The interests of the academic environment must be those related to the guidance and professional training of students, of methodology focused on the interests of formation and modeling of outstanding characters that can trigger feelings of admiration and respect in the future. In this sense, the academic environment must never tolerate exam cheating by students. If a teacher allows students to copy on an exam, he is accepting fraud. Copying is cheating on an exam, and cheating can lead to corruption. Professional ethics and integrity stand in a relationship of mutual hostility to corruption.

Endemic corruption is corruption that is an integral and essential part of the economic, social and political system. Practically, most institutions and activities are used and dominated by individuals and groups of corrupt individuals, there being no other alternative for citizens than to accept and get involved in these acts of corruption. Relative to a single institution, systemic corruption occurs when the entire organization, its culture or leadership allows

corrupt practices, turns a blind eye to these acts and even encourages such inappropriate behaviors (Caiden 2003, 38).

The activity of each member of the academic community must relate to the highest standards of competence and professionalism. The university environment initiates academic programs able to contribute significantly to the evolution of knowledge, to the overall development and training of competitive specialists. Each member of the academic community must take responsibility for the quality of the teaching and research activity and for his contribution to the education process.

Academic integrity is built through the ethical behavior of members of the community of each university, which generates a culture based on academic honesty and intellectual rigor, in which the educational act strives for excellence and is supported by fair and objective assessment, and all members contribute to the prevention, identifying and reporting actions that endanger this target, so that the university can intervene and sanction reprehensible acts. (Practical guide to the Code of Ethics and Professional Deontology in UPB, 5)

In the judicial environment, the magistrate is required to ensure that judicial procedures are carried out in an orderly and efficient manner and that no abuses occur in the process. Thus, an appropriate level of firmness is required. The judge is obliged to establish a delicate balance, the expectations being that he conducts the process with care and speed and at the same time prevents the creation, in the mind of the reasonable observer, of any sense of lack of impartiality. Any action that would create well-founded suspicions about the lack of impartiality in the performance of judicial functions must be avoided (Scrigroup.com n.d).

There may be situations in which a bribe can be given by the person sent to court in order to benefit from a lighter sanction. The failure of the judge to justify the solutions in this sense or the insufficient reasoning make the discretionary way of dosing a punishment or establishing the way of its execution favor acts of corruption or at least the existence and amplification of suspicions regarding it (Danilet 2009, 29).

The magistrate must be a model of integrity as a moral value, a value which in turn is built on independence and springs from integrity.

Integrity is an inner trait that involves acting in a manner consistent with principles and values, without compromises, both in the exercise of work duties and in private life. It signifies the exercise of the function honestly, correctly and conscientiously, in good faith. In practice, integrity manifests itself in the performance of judicial acts with objectivity, in full equality, respecting the terms provided by law, in order to ensure the full legality of the performed act. In justice, integrity is more than a virtue, it is a necessity (Danilet 2009, 2).

3. Conclusions

Ethics and professional integrity are not laws that you obey, they represent inner laws that you communicate with and that know how to listen to you. These inner laws are willing to be allowed to be questioned and possibly bent. We can affirm that: “we do not brutally (agrios) impose our decisions on anyone, but only propose them, leaving them the freedom to choose between persuading us and obeying us” (Plato). Only the law you choose knowingly is legitimate; and in order to be “eligible”, it must, on the one hand, be given to you, and on the other hand, leave you the right to another choice (Pleșu 1994, 21).

References

Caiden, Gerald. 2003. “The Burden on Our Backs; Corruption in Latin America.” Paperwork presented at the VIII-lea “Congreso Internacional del CLAD sobre la Reforma del Estado y de la dministracion Pública, Panamá”.

Dănileț, C. 2009. *Corupția și anticorupția în sistemul juridic (Corruption and anti-corruption in the legal system).* C.H. Beck Publishing House.

Gașițoi, Violeta. 2021. *Despre etica profesională (About professional ethics)*. Available at https://anticoruptie.md/ro/blog/violeta-gasitoi/despre-etica-profesionala-integritatea-trebuie-sa-fie-pe-primul-loc.

Ghid practic de îndrumare a Codului de Etică și Deontologie profesională în UPB (Practical guide to the Code of Ethics and Professional Deontology in UPB).

Hamilton, Neil. 2002. *Academic Ethics Wesport.* Preager Publishers.

Pivniceru, M.M. and Luca C. 2008. *Deontologia profesiei de magistrat. Repere contemporane (Deontology of the magistrate profession. Contemporary landmarks)*. Bucharest: Hamangiu Publishing House.

Plato. *Datoria cetățenului – Dialog etic, Criton (Plato – Citizen's duty - Ethical dialogue, Crito)*

Pleșu, Andrei. 1994. *Minima morală. Elemente pentru o etică a intervalului (The moral minimum. Elements for an ethics of interval).* Bucharest: Humanitas Publishing House.

Sârbu, T. 2005. *Etică, valori şi virtuţi morale (Ethics, moral values and virtues).* Iaşi: Societăţii Academice „Matei Teiu Botez" Publishing House.

Scrigroup.com. n.d. *Fundamental Ethical Values* https://www.scrigroup.com/legislatie/drept/VALORILE-ETICE-FUNDAMENTALE-IN14631.php.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES

DOI:10.5281/zenodo.8310139

Kazakh-Chinese Cooperation in Energy Sphere

S.M. Nurdavletova[1], A.M. Yesdauletova[2], A.O. Yesdauletov[3]

[1]International Relations Department, L.N. Gumilyov Eurasian National University, Astana, saniyanm83@mail.ru
[2]International Relations Department, L.N. Gumilyov Eurasian National University, Astana, ardak63@mail.ru
[3]Department of Journalism And Political Science, L.N. Gumilyov Eurasian National University, Astana, aitken57@mail.ru

ABSTRACT: As a full member of the international community, Kazakhstan contributes to ensuring geopolitical stability and international security, presenting itself as a state that is fully aware of its responsibility to provide global energy balance and security. Central Asia is increasingly becoming the new focus of Chinese diplomacy. This region is an axis linking Northeast, West and South Asia, China and Russia. The People's Republic of China (PRC) is beginning to move closer to key political and economic players in the Central Asian region. Therefore, it is necessary to consider how the new initiative of China, Belt and Road, will affect its further energy cooperation with Kazakhstan and other countries of Central Asia. Kazakh-Chinese cooperation contributes to strengthening the independence of Kazakhstan, allowing development of its energy resources and their export to European markets. But China, as a rapidly growing consumer of energy, inevitably emerges as a potential competitor to the United States and the European Union in Central Asia. Based on a scientific analysis of the strategic interests of Kazakhstan and China, the main purpose of this article is to study new systemic approaches for optimizing cooperation between these two states, which affect national, bilateral, and regional/international issues in the framework of economic development and geopolitics. In turn, based on the study, recommendations will be made for the state structures of the Republic of Kazakhstan in the field of energy policy and energy security of the country.

KEYWORDS: Kazakhstan, China, Central Asia, energy policy, oil and gas

Introduction

The relevance of the topic of this study stems from the role of a relatively new instrument of foreign and economic policy in the face of growing contradictions and competition, namely, "energy diplomacy". Despite the fact that this tool was considered ineffective for a long time, it is increasingly being used, along with traditional diplomacy, by China and Kazakhstan, which enter into commercial ties with the largest energy companies. In the context of a rapidly changing regional situation in the 21st century, the study of Chinese policy in Kazakhstan has an increased theoretical and practical relevance.

The relevance of the topic is determined by the need to study relations between the Republic of Kazakhstan and China at the stage of strategic cooperation. It was this serious turn towards the PRC in the foreign policy of Kazakhstan that finally set priorities in the interests and choice of the countries of the Central Asian region, in general, in favor of the initiative of the new Silk Road and the speedy implementation of transit, logistics and pipeline projects of the “Belt and Road”. To date, Kazakhstan's effective participation in multilateral regional formats and in bilateral dialogues with the outside world on energy issues has been noted.

The development of Kazakh-Chinese energy cooperation is important for expanding trade and economic relations between the Republic of Kazakhstan and the People’s Republic of China, for strengthening the strategic partnership between the two countries, as well as for ensuring the energy security of Kazakhstan in the new conditions of constantly accelerating the process of economic globalization. In this regard, a special place in bilateral relations is given to oil cooperation, in particular, the implementation of an agreement in this area signed by Kazakhstan and China in September 1997. Today, among the CIS countries, Kazakhstan is the second oil producer after Russia, having unique reserves of carbon raw materials. Kazakh oil accounts for approximately 30% of the total energy production, gas 15% of the total share.

Proven strategic reserves include 169 hydrocarbon fields, including 87 oil fields, 17 gas fields, 30 oil and gas fields, and 35 oil and gas condensate fields. Proven reserves amount to 2.2 billion tons of oil, 1.8 billion cubic meters of gas, 0.7 billion tons of gas condensate. In terms of production, the republic ranks 26th in the world (Caspian Policy Center 2020).

In September 1997, during Li Peng's official visit to Kazakhstan, agreements were reached on long-term large-scale cooperation in the extraction and transportation of oil to China. Several more agreements followed, according to which the PRC undertook to finance three major projects in the oil and gas sector of Kazakhstan: the development of the Uzen field ($4 billion), oil production in the Aktyubinsk region ($1.1 billion), and the construction of the Western Kazakhstan-China oil pipeline ($4.5 billion). In addition, 66.7% of Aktobemunaigas JSC was transferred to CNPC.

The Evolution of Kazakh-Chinese Energy Cooperation

Development of relations between China and Kazakhstan in the second half of the 1990s. The Kazakh-Chinese trade and economic relations reached a qualitative level, due to the development of new transport corridors and the prospect of large Chinese investments in the oil and gas sector of the republic. In June 1997, China, represented by CNPC, acquired for $4 billion a 60% stake in JSC Aktobemunaigas, which owns the Uzen field on the Mangyshlak Peninsula.

The Chinese side, according to the signed agreement, also undertook to carry out the development and construction of a 3,000-kilometer oil pipeline, which, according to preliminary estimates, will require another $3.5 billion. This agreement was called the “Contract of the Century”, according to which China announced its intention to invest $9 billion in the oil industry of Kazakhstan in the next 20 years as a result of the construction of an oil pipeline from Western Kazakhstan with a length of 2900 km. The estimated cost of the project is $2.7 billion. The Kazakh part of the pipeline Aktau - Kumkol will be 1200 km, and the Chinese part 1800 km (through the territory of the XUAR). From the XUAR oil fields, the Chinese pipeline system continues to the city of Shanshan. If the oil pipeline is loaded with at least 20 million tons of oil per year, the pipeline can go to Lanzhou, from where there is already a main oil pipeline to Eastern China.

Construction was supposed to be carried out in two stages. First: Kenkiyak Kumkol, 785 km long, oil pumping volume - 15 million tons per year. Second: Atasu - Alazhankou, 1100 km long, the volume of deliveries is 20 million tons annually. At that time, this project had many critics and opponents, which is understandable. After all, it was about reorienting the colossal Chinese market to new oil sources. Considering that the only way to effectively transport Kazakh oil, including Caspian oil, to world markets was through the construction of a pipeline, the approval of the Chinese pipeline project was a great success for China.

Thus, energy cooperation has become one of the priority areas of cooperation between China and Kazakhstan. As is known, the policy of reforms and open doors (since December 1978, the 3rd plenum of the Central Committee of the CPSU of the 2nd convocation) stimulated the development of the economy, and China soon turned from an importer of raw materials into an exporter. In 1999, China's crude oil imports reached 40 million tons, and according to preliminary data in 2000, it exceeded 50 million tons. Data on the production and consumption of oil in China in the 1990s. show that the average annual increase in crude oil production was 1.9%, that is, about 2.75 million tons, and the average annual consumption was 7.7%, or about 10 million tons (CNPC 2022).

It should be noted that 66.7% of Aktobemunaigas JSC was transferred to CNPC; The PRC undertook to finance 3 large projects in the oil and gas sector of Kazakhstan: the development of the Uzenskoye field ($4 billion, oil production in the Aktyubinsk region ($1.1 billion) and the construction of the Western Kazakhstan-China oil pipeline ($4.5 billion).

The fundamental basis between the Governments of the Republic of Kazakhstan and the PRC is the signed documents, such as the Agreement on Cooperation in the Field of Oil and Gas, the General Agreement between the Ministry of Energy and Natural Resources of the Republic of Kazakhstan and the China National Petroleum Corporation (CNPC) on field development projects and the construction of oil pipelines. In the field of energy resources, another important document was signed as an Agreement on the construction of a pipeline from Western Kazakhstan to Western China, as a result of which CNPC acquired a 60% stake in the Kazakhstani enterprise Aktobemunaigas (Kazpravda 1998).

At that time, forecasts showed that the growing Chinese economy after 2000 more than 200 million tons of oil products per year will be needed. If China imported 25-30 million tons of oil from Saudi Arabia, then supplies from Kazakhstan were at the level of 100 to 500 thousand tons, because oil was delivered by rail and this limited the volumes. And the already existing oil pipeline between the two countries makes it possible to pump 20-25 million tons of oil per year and has a positive impact on the economy of the Republic of Kazakhstan. The mutual interest of the countries became the basis for the joint development of the oil and gas industry, which was subsequently successfully implemented in the development of the Aktobe oil field, and later in the Atasu-Alashankou (Kazakhstan-China) oil pipeline project.

In the 2000s Chinese investment in Kazakhstan has expanded to include other sectors such as infrastructure, manufacturing and agriculture. In recent years, Chinese investment in Kazakhstan has continued to grow and China has become one of the largest foreign investors in the country.

Since 2003, energy cooperation has become an important and strategic issue. In this direction, at the interdepartmental level, a Protocol was signed on the joint study and phased construction of an oil pipeline from the Republic of Kazakhstan to the PRC and an agreement on further expansion of investment in the oil and gas sector of Kazakhstan. In addition, Kazakhstan and China signed documents on the project of a main gas pipeline through Kazakhstan, Uzbekistan, Turkmenistan to China with a total length of 7 thousand km, which allowed diversifying gas supplies from Central Asia to world markets. The efforts of the China National Petroleum Corporation (CNPC) have concentrated, in addition to participating in the construction of the Atyrau-Kenkiyak pipeline, on working with other companies that own licenses for exploration and production of oil around the Zhanazhol field (CNPC 2022).

On the basis of previously signed intergovernmental agreements in the field of oil and gas in 1997, Kazakh-Chinese enterprises since 2003 began the implementation of one of the major projects for the construction of the Kazakhstan-China oil pipeline, and eventually the first section of the pipeline from the oil fields of the Aktobe region to Atyrau was completed.

In May 2004, during the state visit of the Republic of Kazakhstan N.A. Nazarbayev to China and after the signing of the Agreement on the construction of the Atasu-Alashankou oil pipeline, construction work began. The contract caused a great resonance in the world media, opening a new route for Kazakh oil and determining the diversification of energy export channels (Kazpravda, 2004). During the visit of the Minister of Energy and Mineral Resources of the Republic of Kazakhstan to China in April 2004, specific issues of development in the field of oil and gas and the construction of the Kazakhstan-China oil pipeline were discussed. As a result of the meeting, the head of the MEMR of the RK and the head of the SCRR signed a Protocol of negotiations, in which agreements were fixed on the further development of cooperation in the oil and gas sector. The export of oil through the Dostyk-Alashankou railway station amounted to 2 million tons in 2003, which indicates both the development of cooperation in the oil and gas sector in general, and the urgency of accelerating the Kazakhstan-China oil pipeline.

And already in 2005 the project was completed, and in 2006 the Atasu-Alashankou main oil pipeline (with a capacity of 10 million tons per year) with a length of almost 1000 km was launched. The launch of the pipeline opened up opportunities for Kazakhstan to fully

utilize its transit potential by transporting Russian oil from Western Siberia through Kazakhstan to China.

In the field of energy cooperation between the two countries, one of the important events was the commissioning in 2009 of the Kazakh section of the Central Asia-China gas pipeline and the presentation of the Kazakhstan-China oil pipeline. The parties agreed to jointly implement a number of new large-scale projects in the field of traditional and alternative energy, innovation and high technology. The Atasu-Alashankou oil pipeline, which was put into operation, allowed Kazakhstan not only to diversify oil export routes, but also to use its transit potential more efficiently. The completion of the construction of the Kenkiyak-Kumkol and Kumkol-Atasu pipelines by the China National Petroleum Corporation (CNPC) connected the Atyrau-Kenkiyak and Atasu-Alashankou oil pipelines built earlier and integrated the main oil pipelines of Kazakhstan into a single system of China (Kazpravda, 2004). Later, in 2013, an agreement was signed between Kazakhstan and China on the transfer of a share (8.333%) to the China National Petroleum Corporation (CNPC) in the large-scale oil project Kashagan on the shelf of the Caspian Sea. The entry of the CNPC corporation into this project reflected a positive effect in bilateral relations, expanded the energy cooperation between the Republic of Kazakhstan and China, and, accordingly, strengthened the position of the corporation itself in the Kazakhstani market. Due to the fact that the growing Chinese economy needs stable energy imports, China's desire for diversification is growing, and Kazakhstan is becoming an important and reliable source of energy resources for the PRC.

Results and discussions

It should be noted that in recent years, Chinese companies have played an increasingly important role in the economy of Kazakhstan. They are represented as public and private companies, as well as joint ventures with local companies. For Chinese partners, Kazakhstan is attractive for its vast reserves of natural resources, infrastructure development opportunities and a growing consumer market. According to Kazakh Invest, in 2019, Beijing's investments in Kazakhstan reached $27.6 billion, making China one of the largest foreign investors in the country (KazInvest 2019).

One of the key events in the history of Kazakh-Chinese cooperation was the One Belt, One Road Initiative, an infrastructure development project led by the Chinese government launched in 2013. Kazakhstan played a key role in this initiative, resulting in a significant increase in Chinese investment in the country.

From 2013 to 2020, as part of the BRI, China invested about $18.5 billion in Kazakhstan, of which $3.8 billion was directed to the transport sector (Forbes, 2020). According to some sources, investments in Kazakhstan amounted to more than $70 billion, or about 80% of all Chinese investments in the region (Crudeaccountability, 2021). Among the key export categories of Kazakhstan to China, crude oil and oil products are in the first place worth US$4.1 billion, which more than doubled in 2022. Next are refined copper and copper alloys worth US$2.3 billion, up 15.2%, and natural gas reaching US$1.2 billion, up 13.6% (EnergyProm 2022). One of the main Chinese companies in Kazakhstan in the investment direction is the China National Petroleum Corporation (CNPC). CNPC is the largest producer and supplier of oil and gas in China and is ranked 4th in the Fortune Global 500.

The company implements successful projects in the Republic of Kazakhstan, such as (CNPC 2019):

- construction in 2019 of a large-diameter steel pipe plant in Almaty to supply Kazakhstan-made pipes for existing and under construction oil and gas pipelines.

- creation of a joint Beineu-Shymkent gas pipeline between CNPC and KazMunayGas JSC. The length of the gas pipeline is 1477 km, capacity - 10 billion cubic meters. m per year. The gas pipeline is one of the main infrastructure projects of Kazakhstan, included in the list of investment strategic projects "Map of industrialization of Kazakhstan for 2010-2014". The

gas pipeline is of strategic importance in providing the southern regions of Kazakhstan with domestic natural gas.

- Establishment of an oil refinery, PetroKazakhstan Oil Products LLP, jointly with KazMunayGas JSC. The capacity of the refinery in terms of processing volume is 6 million tons of oil per year. In 2016-2019 the refinery was modernized for the production of high-quality petroleum products.

Another large Chinese transnational company operating in the Republic of Kazakhstan is CITIC Group, specializing in the engineering and construction industry. Since 1982, the corporation has been investing in foreign projects. In 2017, the corporation's assets amounted to more than $973 billion, revenues - $61 billion. The company ranks 149th in the Forbes Fortune 500 rating (Eldala 2021).

Examples of successfully implemented projects jointly with CITIC Group in Kazakhstan are: implementation of the project for the construction of a plant for desalination of produced water with a capacity of 17,000 m3 per day "LLP JV CITIC-Water Ecology Aktau" together with the Chinese investor "CITIC Envirotech Ltd." (Primiminister.kz 2022); implementation of a bitumen plant project in the city of Aktau jointly with CITIC Group and the Kazakhstan State Oil and Gas Corporation.

Conclusions

So, China is a long-standing and stable energy partner of Kazakhstan. Over the years of cooperation, two important pipelines for the transportation of energy resources have been built: an oil pipeline and a gas pipeline. More than 150 million tons of oil were transported through the Kazakhstan-China pipeline. In general, according to the Ministry of Energy of the Republic of Kazakhstan, Kazakhstan has managed to transport about 147 million tons of oil to China since the start of operation of the Kazakhstan-China pipeline and 44 billion cubic meters of gas since 2013 via the Sarybulak-Zimunai and Kazakhstan-China gas pipelines. Chinese companies hold an important share in oil and gas production in Kazakhstan. According to data for 2021, China ranks 4th in the regional context for oil production in the Republic of Kazakhstan. China accounts for 16% of all oil production in Kazakhstan and CNPC is ranked 3rd in the list of top 10 investors in oil production in 2021, accounting for 11.5% of production. In 2021, CITIC produced 1.4%, or 1.22 million tons of oil (Eldala 2021).

At the same time, it should be noted that the process of foreign investment in the oil and gas industry of Kazakhstan is hampered by a number of problems related to accounting for their inflow. This applies to investments from all countries, including China. Firstly, Kazakhstani statistics do not contain data on the geographical breakdown of foreign investment in the oil industry; it reflects investment parameters only for a more aggregated type of activity - “mining and quarrying”. This problem, however, can be omitted by identifying the oil industry with the mining industry, since virtually all foreign investment accumulated in the mining industry is concentrated in the "crude oil and natural gas" industry.

Secondly, there is the problem of accurately identifying the country of origin of foreign investments in the oil industry of Kazakhstan, since in many cases foreign companies prefer to use the jurisdictions of other countries, creating subsidiaries there that act as investors in Kazakhstani projects. This also applies to the activities of Chinese companies in full, which makes it extremely difficult to objectively assess their investment activity in the oil industry of Kazakhstan.

In Kazakhstan, the reinvested income of enterprises with foreign participation is one of the main sources of direct investment - in the last few years (since 2016) they form about 30% of the gross FDI inflow into the country (Primiminister.kz 2022). In this regard, the volume of income received by companies in the oil sector, including those with the participation of Chinese capital, can be a fairly representative indicator of their investment activity.

Thus, Kazakh-Chinese oil and gas cooperation is a model of mutual benefit and mutually beneficial situation. China is a major energy consumer and annually imports large quantities of energy raw materials such as oil, natural gas, coal and uranium ore. Kazakhstan is an energy rich country with large reserves of oil, natural gas, uranium, coal, solar and wind energy.

Acknowledgments

This research has been funded by the Science Committee of the Ministry of Education and Science of the Republic of Kazakhstan (Grant No. AP14870606).

References

Caspian Policy Center. 2020. "China-Kazakhstan Bilateral Relations. Caspian Policy Center." Available at https://www.caspianpolicy.org/research/security-and-politics-program-spp/china-kazakhstan-bilateral-relations [Accessed on 21.05.2023].

CNPC. 2019. "Uspeshnye energeticheskie kompaniy KNR v RK." Available at http://www.cnpc-amg.kz/?p=vnov_46 [on 16.02.2020].

CNPC. 2022. http://economicdefinition.com/Companies_of_China/Kitayskaya_Nacionalnaya_Neftegazovayakorporaciya CNPCeto.html [Accessed on 10.03.2022].

Crudeaccountability. 2021. "Po dannym nekotorykh istochnikov…" Available at https://crudeaccountability.org/kazakhstan/ [Accessed on 30.08.2022].

Eldala. 2021. "Deyatel'nost' CITIC Group v RK." Available at https://eldala.kz/novosti/kazahstan/7242-kitayskiy-holding-citic-nameren-investirovat-v-apk-kazahstana [Accessed on 13.12.2022].

EnergyProm. 2022. "China, Kazakhstan Bilateral Trade Up 34% In Twelve Months." Available at https://www.silkroadbriefing.com/news/2023/03/15/china-kazakhstan-bilateral-trade-up-34-in-twelve-months/ [Accessed on 17.07.2023].

Forbes.kz. 2020. "Investitciy Kitaya v Kazakhstan v 2019." https://forbes.kz//finances/markets/ostaetsya_li_proekt_odin_poyas_-_odin_put_po-prejnemu_perspektivnyim [Accessed on 08.11.2022].

Kazakh Invest» dataData. 2022 Available at https://invest.gov.kz/media-center/press-releases/stroitelstvo-kazakhstansko-kitayskikh-invest-proektov-budet-vestis-v-sootvetstvii-s-zakonodatelstvom/ [Accessed on 02.06.2022].

Kazpravda. 1998. "Kazakhstan – Kitai: est' neobkhodimost' «sverit' zhasy»." *Kazakhstanskaya pravda*, 3 iulya 1998.

Kazpravda. 2004. "Sotrudnichestvo vo imya budushego." *Kazakhstanskaya pravda*, 20 maya 2004.

Primiminister.kz. 2022. "Sotrudnichestvo RK i KNR v energeticheskoi sfere." https://www.primeminister.kz/en/news/reviews/oil-production-construction-of-schools-and-active-development-of-tourism-what-projects-implemented-in-mangystau-region9867 [Accessed on 18.07.2023].

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES

DOI:10.5281/zenodo.8310146

William Lane Craig, a Classic Apologist

Sergiu Ghica

PhD(c), Doctoral School of Theology and Religious Studies,
University of Bucharest, Romania, sergiughica@yahoo.com

ABSTRACT: This paper presents William Lane Craig as a proponent of classical apologetics and explores his influence on the content and structure of contemporary discussions. These dialogues encompass a wide spectrum, ranging from historical studies of Jesus and His resurrection to cosmological and moral evidence of God's existence, as well as the coherence of Christian theism. In the last part of this paper, we will highlight Craig's notable contribution to the contemporary field of apologetics.

KEYWORDS: classical apologetics, Christian faith, evidence, truth, kalām cosmological argument

Classical apologetics, as the name suggests, is the apologetic approach that has its deepest roots in the history of Christian apologetics and, in its modern explicit form, remains a powerful force today. Several strengths account for the perennial success of this approach. One of the great strengths of classical apologetics is its emphasis on the inevitability of logic or reason (Rotaru 2005, 36). As Geisler observes, "Unless the law of non-contradiction is valid, then there is not the slightest possibility of meaning and no hope of establishing truth" (Geisler 1993, 37).

There can be no meaningful discourse without the fundamental laws of logic. The most important of these is the law of non-contradiction (also known as the law of contradiction), according to which something cannot be both true and false at the same time and in the same respect (Boa and Bowman 2001, 377). Although Christian apologists learned this along with other principles of deductive logic from Greek philosophy (especially Aristotle), classical apologists rightly point out that observance of these laws does not oblige them to an uncritical acceptance of Aristotelian philosophy. Aristotle defined but did not invent logic. R. C. Sproul notes that several thinkers of the 20th century have rejected the law of contradiction at the theoretical level. Despite this intellectual denial, "everyone lives their daily lives in tacit assumption of the validity of the law... Man cannot survive or function without assuming the validity of the law of contradiction (Sproul 1974, 28-29)."

The importance and value of this emphasis on deductive logic is great. Logic is an extremely useful tool for understanding and evaluating arguments and proves its usefulness to the apologist in three ways. First, it is an indispensable tool for checking the apologist's arguments to ensure that they are constructed correctly. Those we seek to persuade reject our illogical arguments, even if the conclusions are true. It happens that way because other kinds of arguments could be used to support falsehoods. Illogical arguments cannot be trusted and the function of logic is to identify where arguments are unreasonable. We have a responsibility to present non-Christians with arguments that they cannot reject as misleading or unreliable. Logic is the formal discipline that gives us the intellectual tools that can make our arguments as reliable and truth-based as possible.

Second, logic is a powerful tool for exposing the problems in the arguments used against the Christian faith. Classical apologists are confident that every argument raised against the Christian faith is, in principle, devoid of sound logical argument; many of these are problematic simply because they are logically invalid. Since most non-Christians are capable of understanding at least some basic elements of the principles of logic, exposing logical fallacies in their arguments can help show them that the reasons for rejecting Christianity are misplaced, wrong.

The value of reason in this sense is enhanced because reason, unlike technical information in the sciences or personal religious experiences, is a universal principle accessible to all people. If they are open, non-Christians of any culture and level of education can be helped to admit that their objections to Christianity contain logical fallacies.

Third, the emphasis on logic is helpful to support the rationality of Christ's commands before unbelievers. Too often unbelievers have the impression that we are advocating an irrational faith that requires people to suspend their critical reasoning faculties. Classical apologists work to dispel this stereotypical thinking of educated and intellectual non-Christians by demonstrating that the God in whom we believe is the God of reason and truth.

Classical apologists point out that every man has a certain worldview when he relates to the world around him, to historical facts or human experiences. "The refusal to adopt an explicit worldview will itself turn out to be a worldview or at least a philosophical position"(Geisler 1993, 38). It has been suggested, on good grounds, that William Lane Craig (1949 -) may be Oxford's most important Christian apologist after C. S. Lewis. Craig has two earned doctorates, an evangelist's heart and an apologetic work that enjoys international recognition. According to *The Chronicle of Higher Education,* Craig is "Christian philosophy's boldest apostle," and most influential educational circles have named Craig one of "the 50 most influential philosophers alive" (Forrest, Chatraw, and McGrath 2020, 750).

Craig's influence on the substance and shape of contemporary discussions is evident, from historical studies of Jesus and his resurrection, to cosmological and moral evidence for the existence of God, and the coherence of Christian theism. Beyond his scholarly contributions, Craig is also a regular Sunday school teacher and the author of a series of children's books (Forrest, Chatraw, and McGrath 2020, 752). William Lane Craig is an evangelist par excellence. Craig believes it is possible and appropriate to offer rigorous, positive intellectual arguments for Christian theism. He explains:

> As we read Acts, it is evident that the standard procedure of the apostles was to argue the truth of the Christian worldview with both Jews and Gentiles (e.g., Acts 17:2-3, 17; 19:8; 28:23-24). In dealing with Jewish audiences, the apostles appealed to fulfilled prophecies, the miracles of Jesus, and especially Jesus' resurrection as proof that he was the Messiah (Acts 2: 22-32). When confronted with Gentile audiences, the apostles appealed to God's work in nature as proof of the Creator's existence (Acts 14:17). Then they appealed to the eyewitness testimony of Jesus' resurrection to show specifically that God had revealed himself in Jesus Christ (Acts 17: 30-31; 1 Corinthians 15: 3-8) (Craig 2008, 23)

In this sense, Craig's apologetic methodology gives primacy to the establishment of God's existence and God's self-revelation in Jesus (especially as evidenced in Jesus' resurrection) as two pillars of the Christian faith, an approach known as classical apologetics. Craig's apologetic approach is grounded in a certain religious epistemology. While rejecting theological rationalism, i.e., the claim that arguments and evidence are necessary to ground faith, Craig argues that the truth of Christianity is rational.

The inward witness of the Holy Spirit that is in believers "provides an immediate and truthful assurance of the truth" of Christianity, so that one's belief that the truth of Christianity is authentic is a basic belief. "God is not," Craig points out, "the conclusion of a syllogism; he is the living God of Abraham, Isaac, and Jacob who dwells in us"(Craig 2010, 34). Therefore, the inner witness of the Spirit provides perfectly rational reasons for faith. Craig is speaking here only about the experience of assuring a believer that the Christian view is true, not about how an unbeliever comes to faith. There is, then, a sense in which a believer's "knowledge" of Christianity is distinct from the apologetic task.

To show that the Christian view is authentic in disputes with those who reject it, Craig sees this as the real task of apologetics. Here, again, the role of the Holy Spirit is essential, now in "opening the unbeliever's heart to be convinced by the argument." Thus, "when a person refuses to come to Christ, it is because he willingly ignores and rejects the voice of the

Spirit of God. But anyone who responds to the call of God's Spirit with an open mind and an open heart can know with certainty that Christianity is true, because God's Spirit will convince him that it is" (Craig 2010, 34).

Craig affirms the essential role of the Holy Spirit in apologetic circumstances alongside the prominent role of arguments and evidence, which are ultimately the means the Spirit uses through believers to show the truthfulness of Christianity. The presentation of arguments or evidence, in Craig's view, should not be seen as a competition or an alternative to the Spirit's work. Remembering that Craig's own conversion to Christianity did not involve apologetics, it is not surprising that he readily acknowledges the contingency of apologetics for conversion. Of course, God sees fit to use various means to draw people to himself. However, there is great value for apologetics, in Craig's view, beyond personal evangelism: strengthening the faith of believers, for example, as well as helping "to create and sustain a cultural environment in which the gospel can be heard as a viable intellectual option for men's and women's thinking" (Forrest, Chatraw, and McGrath 2020, 755).

It is clear that Craig takes a high view of natural theology, which he defines as "that branch of theology which attempts to provide a warrant for belief in the existence of God apart from the resources of authoritative, propositional revelation." Natural theology is not understood to be identical with general revelation; the former develops out of people's contemplation of the latter. In building his positive case for Christianity, Craig appeals extensively to the general revelation of God, taking this as the locus (or perhaps inspiration) for his arguments. Craig's Birmingham PhD thesis, for example, developed and defended the kalām version of the cosmological argument.

The cosmological argument kalām (derived from the Arabic word for "speech") can be stated as a simple syllogism:

(1) Everything that begins to exist has a cause for its existence.

(2) The universe began to exist.

(3) Therefore, the universe has a cause of its existence (Craig 2008, 103).

Given the truth of the first two premises, the conclusion follows with necessity. It follows from the very nature of things that, being the cause of space and time, this supernatural cause must be an uncaused, unchanging, timeless and immaterial being who created the universe. The being must be uncaused because there cannot be an infinite regress of causes. It must be timeless and therefore unchanging because it created time. Since it created space, it must be transcendent in relation to space and therefore immaterial, not physical in nature (Meister and Swies 2012, 153).

Moreover, argues apologist William Lane Craig, it must be personal, for how else could a timeless cause produce a temporal effect like the universe? If this cause were a set of necessary and sufficient conditions with mechanical action, the cause could not exist at all without an effect. For example, water freezes because the temperature (cause) is below 0˚C. If the temperature were below 0˚C from eternity past, then any existing water would be frozen from eternity past. It would be impossible for water to have only started freezing a finite time ago. So if the cause is eternally present, then the effect should be eternally present. The only way to have a timeless cause and effect that begins in time is for the role of cause to be played by a personal agent who freely chooses to create a time effect without prior deterministic conditions. For example, a man standing from eternity could freely stand up. Thus, we are brought not only to a transcendent cause of the universe, but to its personal Creator. Without launching into a full evaluation of this argument, it is worth noting that beyond philosophical support, Craig also appeals to Big Bang cosmology in support of his argument. The central idea of the kalām is that if the universe began to exist a finite time ago and everything that begins to exist must have a cause for its existence, then there must be a cause for the existence of the universe. Everything that begins to exist has a cause seems indisputably true - at least to a greater extent than its denial. And yet a number of atheists, to avoid the conclusion of the

argument, deny the first premise. Some claim that subatomic physics provides an exception to premise 1, since at the subatomic level, they say, events are uncaused. Likewise, certain cosmic origin theories are interpreted as hints in favour of the hypothesis that the entire universe came into being from the subatomic vacuum (Boa and Bowman 2001, 355).

However, this objection is based on a misinterpretation. First, not all scientists agree that subatomic events are uncaused. A number of physicists today are totally dissatisfied with this view of subatomic physics (the so-called Copenhagen Interpretation) and investigate deterministic theories such as that of David Bohm. Thus, subatomic physics is not a proven exception to premise 1. Secondly, even according to the traditional, non-deterministic interpretation, particles cannot be said to come into being from nothing. They arise as spontaneous fluctuations of the energy contained in the subatomic vacuum, they cannot be said to come from nothing. Thirdly, the same can be shown for theories about the origin of the universe from a primordial vacuum. The well-known journals which advertise a theory that something is obtained from nothing simply do not understand that the vacuum is not identified with nothing; the vacuum is a sea of fluctuating energy endowed with a rich structure and subject to physical laws. Epistemologist Robert Deltete sums it up accurately:

> There is no basis in normal quantum theory for the claim that the universe itself is uncaused, much less for the claim that the universe came into being uncaused, literally out of nothing (Craig 2010, 29).

Other atheists have argued that premise 1 is true of things in the universe, but not true of the universe itself. But this objection misinterprets the nature of the premise. Premise 1 does not simply state a physical law such as the law of gravity or the laws of thermodynamics, which have applicability to things in the universe. Premise 1 is not a physical principle. Rather, argues classical apologist William Lane Craig, premise 1 is a metaphysical principle, a principle about the very nature of reality: being cannot come from non-being; something cannot come into being from nothing, uncaused. The principle therefore applies to all of reality. From a metaphysical point of view, it is absurd that the universe should suddenly come into being out of nothing. Even J.L. Mackie, one of today's leading atheists, admits that he finds such an idea impossible to believe, remarking:

> I, for one, find it hard to accept the idea of self-creation out of nothing, even considering the unfettered action of chance. And how can there be such a given if there is actually nothing? According to the atheistic view, the potentiality of the existence of the universe did not even exist before the Big Bang, since nothing is prior to the Big Bang. But then how could the universe actually actualize itself, if there is not even the potentiality of its existence? It is far more rational to assert that the potentiality of the universe lies in God's power to create it (Craig 2008, 103).

To establish premise 2, Craig must show that the past series of time events must be finite; there must be the beginning of the universe in time. One way Craig does this is by arguing that an infinite temporal regress of events would be a proper infinity. Now, history (the collection of past events) is a determinate collection, i.e. a set of discrete events stretching back into the past. As members of the set of past events, these temporal events are or were actual; they occurred in reality. This means that if history comprises an infinite collection of temporal events (e.g., days or years), then that collection will be an actual infinite. But, Craig continues, attempts to translate or position the notion of an actual infinite in the real world only leads to absurdity. This is evident, Craig argues, when one attempts to perform inverse operations on transfinite numbers (for example, subtracting infinity from infinity produces contradictory answers: zero and infinity):

> The typical objection raised against the philosophical argument for a beginning of the universe is that modern mathematical set theory proves that an infinite number of things can exist and be actualized. For example, there are an infinite number of members in the set {0, 1, 2, 3.....} As such, there is no problem with an infinite number of events. But this objection is not justified,

> not all mathematicians agree on the existence of actual infinities in the mathematical domain. They believe that series of 0, 1, 2, 3, ... are only potentially infinite; that is, they approach infinity as a limit, but never actually get there. To say that there are infinite sets is nothing more than to postulate a domain of discourse, governed by certain axioms and rules that are only assumed, in which one cannot speak of such multitudes ((Craig 2020, 86).

Given axioms and rules, one can compose a coherent discourse about infinite sets. But this provides no guarantee that the axioms and rules are true or that there can be an infinite number of things in the real world. The existence of an infinite number of things would violate the rules of infinite set theory. Trying to subtract infinite quantities leads to contradictions, so infinite set theory simply prevents such operations from maintaining consistency. In the real world there is nothing to prevent us from breaking this arbitrary rule. If I had an infinite number of balls, I could subtract and divide their number as I wish.

It follows, then, that the notion of history as an infinite collection of past events is logically absurd. In other words, the past collection of temporal events cannot be infinite; the universe must have had a beginning at some point in the finite past, and we are therefore obliged to contemplate the cause of the universe's beginning. The best explanation, Craig argues, is that God exists as a personal agent who chose to bring the universe into existence (Forrest, Chatraw, and McGrath 2020, 760).

Craig's apologetic contributions, both unwritten and written, are considerable. Craig's success in using the internet for his ministry is extraordinary. Functioning as both a virtual office and a clearinghouse for his ministry materials, Craig's website features many of his writings, answers his "Question of the Week," and includes videos of interviews, lectures, and debates, as well as links to his regular podcast ("Reasonable Faith" (https://www.reasonablefaith.org/), also on iTunes) and to the weekly "Defenders" Sunday class he teaches. With about 83,300 monthly visitors, this platform makes Craig's work available to people around the world (Forrest, Chatraw, and McGrath 2020, 766).

Perhaps Craig's most recognizable contribution to apologetics is his participation in professional debates. In the spring of 1982, Campus Crusade-Canada asked Craig to travel to the University of Calgary to debate atheist Kai Nielsen. After eight years of competitive debating during his school years, this was Craig's first professional debate. The electrifying atmosphere and sizable audience drawn to the debate impressed Craig. Indeed, "it became very clear to him that debate was the forum for evangelism on today's college campus" (Craig 2020, 45). Since then Craig has participated in over 150 professional debates. Notable among these was the debate on February 18, 1998, with the then atheist philosopher Antony Flew. After this debate, contemplating Craig's defense of the design argument, Flew "found reason to believe that the design argument has substantial force" and ultimately rejected atheism. On February 1, 2013, at Purdue University, Craig debated Alex Rosenberg, professor of philosophy at Duke University. Most of Craig's debates, like the debates with Flew and Rosenberg, concern the question of the existence of God. But on April 11, 2011, Craig debated neuroscientist and prominent new atheist Sam Harris at the University of Notre Dame on the question "Is the foundation of morality natural or supernatural?" During his keynote address, Harris said that Craig is "the only Christian apologist who seems to have put the fear of God into my fellow atheists!" (Craig and Harris 2011).

What is compelling from these debates is Craig's consistency in appealing to the cosmological argument, the teleological argument, and the moral argument in establishing theism and then moving to a defense of the historicity of Jesus' resurrection to establish Christian theism. Put together, Craig's debates have amassed several million views on YouTube.

Despite the large number of people his unwritten work has reached, Craig's most enduring contribution to apologetics is his written work. Craig has written or edited approximately fifty books (not counting his contributions of over eighty chapters) and

published over 125 journal articles. His renowned works are read by countless laypeople, and Craig's scholarly publications are essential reading in many classrooms and continue to demand engagement at the highest levels of academia. The extensive work of William Lane Craig in Christian apologetics has left an indelible mark in the field, playing a vital role in creating an environment where the Christian worldview is considered a viable intellectual option.

References

Boa, Kenneth D., and Robert M. Bowman. 2001. *Faith has its reasons*. Navpress Pub Group.

Craig, William Lane. 2008. *Reasonable Faith*. Wheaton, Illinois: CrossWay Books.

Craig, William Lane. 2010. *Five views on Apologetics*. Grand Rapids: Zondervan.

Craig, William Lane. 2020. *În gardă (On guard)*. Oradea: Casa Cărții Publishing House.

Craig, William Lane and Sam Harris. *2011.* **"**The God Debate II: Harris vs. Craig - Is Good from God?**"** *YouTube,* University of Notre Dame. https://www.youtube.com/watch?v=yqaHXKLRKzg.

Forrest, Benjamin K., Joshua D. Chatraw, and Alister E. McGrath. 2020. *The History of Apologetics*. Grand Rapids: Zondervan.

Geisler, Norman L. 1993. *Apologetică creștină (Christian Apologetics)*. Wheaton, Ilinois: Societatea Misionară Română.

Meister, Chad V. and Khaldoun A. Swies. 2012. *Christian Apologetics, An Anthology of Primaty Sources*. Zodervan Academic.

Rotaru, Ioan-Gheorghe. 2005. Istoria Filosofiei, de la începuturi până la Renaștere (The History of Philosopy from the Beginning until the Renaissance). Cluj-Napoca: Universitară Clujeană Press.

William, S. Peter. 2013. *A faithful guide to Philosophy*, London: Paternoster.

RAIS RESEARCH ASSOCIATION for INTERDISCIPLINARY STUDIES

DOI:10.5281/zenodo.8310149

Semiconductor Competition Between China and Taiwan

Moustafa Hamil

PhD Student, University of Kasdi Merbah Ouargla, Algeria, moustafa.hamil@univ-ouargla.dz

ABSTRACT: This paper explores the competition between China and Taiwan in the semiconductor industry. It discusses the current state of the industry in both countries, their competitive advantages, and the strategies employed to gain an edge. The research also examines the global implications of this competition, the key factors shaping the rivalry, and possible avenues for cooperation to enhance the semiconductor industry's competitiveness and efficiency. The relationship between China and Taiwan is experiencing intense competition over the electronics sector, including semiconductors and electronic chips. Taiwan plays a significant role in the high-tech and electronics industry, which makes it a target of China's economic and technological hegemony strategies. China seeks to achieve superiority in these industries and gain control over the global supply chain, which gives it great strategic power. Its policy is to try to increase its influence on Taiwan, both by diplomatic pressure and by constant military threats. China seeks to achieve "national unity" and restore Taiwan under its control. This geopolitical escalation is increasing simultaneously with the rivalry between China and the USA. The United States stands by Taiwan through its political and military support, which further aggravates the tension between the two states. This competitiveness manifests itself in multiple areas, including technology, security and economics. In short, the conflict between China and Taiwan over semiconductors and electronic chips reflects the rising geopolitical tensions in the region, with the overlap of economic, political and technological factors, the ongoing rivalry between China and the United States further complicates the scene.

KEYWORDS: China, Taiwan, semiconductor, competition, challenges

Introduction

The semiconductor industry is witnessing intense competition between China and Taiwan, both vying for a larger share of the global semiconductor market, valued at over $400 billion. While China focuses on significant investments in the industry, Taiwan emphasizes research and development. Each country possesses unique strengths and weaknesses, leading to continuous rivalry in the foreseeable future. China stands as the world's largest semiconductor market, having received substantial government investments and subsidies. In contrast, Taiwan ranks as the second-largest semiconductor market and houses prominent companies like TSMC and UMC. This rivalry has led to a trade war, with tariffs imposed on semiconductor imports by both countries.

The Sino-Taiwanese conflict represents an important geopolitical tension in East Asia. The relationship between China and Taiwan is experiencing intense competition over the electronics sector, including semiconductors and electronic chips. Taiwan has a large role in the high-tech and electronics industry, which makes it a target of China's economic and technological hegemony strategies. China seeks to achieve superiority in these industries and gain control over the global supply chain, which gives it great strategic power. Its policy is to try to increase its influence on Taiwan, both by diplomatic pressure and by constant military threats. China seeks to achieve "national unity" and restore Taiwan under its control.

This geopolitical escalation is increasing simultaneously with the rivalry between China and the USA. The United States stands by Taiwan through its political and military support, which further aggravates the tension between the two states. This competitiveness manifests itself in multiple areas, including technology, security and economics.

In short, the conflict between China and Taiwan over semiconductors and electronic chips reflects the rising geopolitical tensions in the region, with the overlap of economic, political and technological factors, the ongoing rivalry between China and the United States further complicates the scene.

The primary problem addressed in this study is to examine the most significant implications and consequences of the competition between China and Taiwan in the semiconductor industry.

To achieve this, sub-questions are formulated as follows:

1-What is the significance of semiconductors, and why are they crucial in today's world?

2-What challenges does the Sino-Taiwanese semiconductor competition pose?

3-What are the outcomes of the Sino-Taiwanese competition in the semiconductor sector?

In addressing the main problem and its sub-questions, the research adopts the Copenhagen School's information security approach, analyzing the solid and intelligent sides of information under the leadership of theorist "Barry Buzan." The epistemological perspective and composite analysis are utilized to comprehend the competition dynamics and implications. Additionally, a statistical approach is employed to grasp the conflict and investment structures accurately through digital language.

It is essential to note that due to the novelty of the subject, the research faced difficulties in obtaining references. As a result, real-time data analysis was employed, considering the global implications.

1. Conceptual Framework

1.1. Definition of Semiconductors: Semiconductors are materials with electrical properties between conductors and insulators, used in various electronic devices like transistors, diodes, and integrated circuits. They play a critical role in industries such as computers, smartphones, and solar cells (Britania Encyclopedia 2022). Semiconductors are materials that have the advantage of being able to conduct electricity better than insulators (such as plastics) and twice as well as conductive materials (such as metals). Semiconductors include materials such as silicon and germanium, they are characterized by electrical properties that can be controlled by adding impurities or changing the temperature. The importance of semiconductors is not limited only to technological industries, but is expanding to everyday life, the economy and national security. Here are some aspects that highlight their importance:

Technological industries: Semiconductors are fundamental for the electronics and Information Technology Industry. They are used in the manufacture of electronic chips (chips), which are essential parts for computers, smartphones and various electronic devices.

Alternative energy: Semiconductors are used in the manufacture of solar cells and devices for converting solar energy into electricity, contributing to the provision of clean and sustainable energy sources.

Communication: Modern communication networks, including the internet and mobile phones, rely on semiconductors to ensure fast and efficient data transmission.

Medicine and Biosciences: Semiconductor is used in the manufacture of Biosensors and advanced medical technologies.

Defense and national security: Semiconductors are at the top of the list of critical technologies in the development of security systems, surveillance and smart weapons.

In general, semiconductors can be considered a" pillar and lifeline" for individuals and states due to their profound impact on technological, economic and security development. Almost every aspect of modern life is influenced by devices and technology, and this reinforces the role of semiconductors as one of the infrastructure elements of this development.

1.2. Electronic Chips: Electronic chips, commonly found in modern devices like phones, computers, and cars, are essential in various industries, including microchips. The manufacturing of these chips requires substantial funds and complex equipment (Thra 2022). Electronic chips are small chips of a semiconductor material (most often silicon) that contain electronic microcircuits made up of millions of electronic components such as transistors, capacitors and resistors. These chips are the basic element of the electronics industry, and it is they that enable the work and functions of various electronic devices. The importance of electronic chips manifests itself in a wide range of industries and uses, including:

Computers and smartphones: electronic chips make it possible to manufacture central processors (CPUs) and graphic processing units (GPUs) that form the main brain of computers and smartphones. They contribute to increasing the speed and performance of these devices.

Communication: chips are used in the manufacture of communication devices such as mobile phones, Wi-Fi devices and radios, and help in the transmission and reception of signals.

Smart cars: chips play an important role in the development of smart cars, Control Systems, Security and in-car entertainment.

Household appliances: includes household electronics such as televisions, air conditioners and washing machines, where chips contribute to improving their performance and saving energy.

1.3. Quantum Computing: Quantum computing employs quantum mechanical effects to perform computations, offering significant performance gains for specific problems compared to conventional supercomputers. It can handle quantum-safe encryption algorithms (Cybersecurity Review 2021).

1.4. Encryption and Key Systems: Quantum secure encryption provides solutions to the limitations of traditional public key technologies like RSA and ECC, enhancing security and resilience against attacks. (EGE 2022).)

1.5. Governmental Policies: Government policies in China and Taiwan significantly impact the semiconductor competition, with both countries providing support and incentives to develop their semiconductor industries (EGE 2022; Le Figaro 2022).

1.6. Price Competition: China and Taiwan compete directly in terms of pricing, offering more services at lower price points, potentially affecting the semiconductor industries of both countries (BBC 2022). The price competition between China and Taiwan in the semiconductor field reflects the challenges and economic and industrial dynamics between the two countries. Here are some aspects that can affect this rivalry:

Production cost: China has relatively low production costs due to its large workforce and well-developed infrastructure. This gives Chinese companies a competitive advantage in terms of costs.

Technological improvement: Taiwan is famous for advanced technologies and high quality in the semiconductor industry. This can lead to more high-quality products and high performance, but it can also be associated with higher production costs.

Market competition: companies from China and Taiwan are facing global competition in the semiconductor market. Companies from both countries strive to offer products at competitive prices to maintain market share and attract customers.

Specialization and diversity: some Taiwanese companies are among the leaders in the semiconductor industry, and this allows them to offer specialized and diverse products. Specialization can help maintain higher profit margins despite price competition.

Government support: governments in both countries are intervening to support the semiconductor industry by providing financing and subsidies. This can affect the ability of companies to offer products at competitive prices.

Ultimately, the price competition between China and Taiwan in the semiconductor field reflects a delicate balance between technology, costs and quality. These dynamics can change over time based on technological developments, economic and political factors.

l.7. Property Rights: Both China and Taiwan have strong intellectual property laws, but enforcement varies, leading to concerns and challenges for some companies (BBC 2022).)

1.8. Semiconductor Industry: A highly competitive and rapidly developing sector, the semiconductor industry in China and Taiwan is characterized by significant investments in technology and research (EGE 2022).

2. Factors Driving and Structuring the Sino-Taiwanese Competition Over Semiconductors

2.1. Economic and Strategic Importance: Semiconductors are crucial for economic growth and national security in both countries, shaping their competition for market share and technological superiority (Britania Encyclopedia 2022). Semiconductors represent a strategic sector of great economic and technological importance. This sector plays a vital role in the development and progress of technological and electronic industries. Here are some points that embody the economic and strategic importance of semiconductors and have influenced the rivalry between China and Taiwan:

Biotechnology: Semiconductors are used in a wide range of devices and applications ranging from smartphones to medical devices and industrial systems. So, countries and companies that manage to advance in this area achieve tremendous economic impact and strengthen their technological position.

Innovation and scientific research: The development of semiconductor technologies requires constant innovation and research, which contributes to enhancing scientific and technological progress and increasing competitiveness in the global market.

Manufacturing and supply: The production and manufacturing of semiconductors represents a prominent sector in the global supply chain. Taiwan and China are dueling to achieve leadership in this field to meet the growing demand for these technologies.

Industrial dependence: There are a lot of other industries that rely heavily on semiconductors, such as electric cars, renewable energy, artificial intelligence, and the Internet of things, which increases the importance of this sector.

Technological independence: The pursuit of the development of semiconductor technologies contributes to the achievement of technological independence of countries and companies, making them less exposed to the impact of global political and economic changes.

The impact of cyber security: Developments in the field of semiconductors are related to the advancement of communication technology and information security, and this enhances the importance of this sector from a strategic and defensive point of view.

Taiwan and China occupy leading positions in the field of semiconductors and strive to achieve dominance and superiority in this vital sector, making it a vital competitive area influenced by economic and technological developments in the world

2.2. Market Size and Growth: The semiconductor market's rapid growth attracts both China and Taiwan, leading to increased investments and efforts to capture a larger market share (Thra 2022; EGE 2022). The overall market price plays a decisive role in shaping the competition between China and Taiwan in the field of semiconductors. Here's how the overall market price can affect this rivalry:

Attract customers and market: Low prices tend to attract customers and manufacturers. In a competitive environment, companies that offer high-quality products at affordable prices can be more attractive to customers and achieve a larger market share.

Profit margin and competitiveness: If companies succeed in offering semiconductors at competitive prices and acceptable quality, this can lead to increased demand and, consequently, increased revenue, even if profit margins are tight.

Investments and development: The market price can affect the ability of companies to attract investments and allocate resources for research and development. Companies that are able to offer products at attractive prices increase the chances of attracting investments and accelerate technological progress.

Technological superiority: If China or Taiwan can offer advanced semiconductors at competitive prices, this can strengthen its technological position and make it outperform competitors in the global market.

The influence of government and politics: The market price may be related to government interventions and policies. Government support and infrastructure facilitation can help to achieve better competitiveness in the semiconductor market.

Reputation and brand: The market price can affect the reputation of companies and their brand. Providing good quality products at competitive prices may help build a positive reputation and increase brand value.

Thus, the overall market price shows a direct impact on the competitiveness of China and Taiwan in the field of semiconductors, and can be a pivotal factor influencing corporate decisions and strategies in this sector.

2.3. Government Support: Both countries receive substantial government support in the form of research and development funding, tax incentives, and subsidies, bolstering their semiconductor industries (EGE 2022; Le Figaro 2022).

2.4. Competitiveness: China and Taiwan view each other as major competitors in the global semiconductor industry, driving continuous rivalry and efforts to gain a competitive edge (Britania Encyclopedia 2022). Both the Chinese and Taiwanese governments have provided significant support to the semiconductor industry with the aim of enhancing competitiveness and achieving technological progress. Below is an overview of government support from both countries:

China:

National Industrial Development Strategy: The Chinese government has launched several strategies aimed at the development of technological industries, including the semiconductor industry. These strategies include "Semiconductor industry and chip technology," and "Integrated circuit industry and green technology."

R&D (Research and Development) investment: The Chinese government has provided significant funding for semiconductor R&D, including the development of manufacturing technologies and chip technology technologies.

Encouraging foreign direct investment: China encourages foreign direct investment in the semiconductor industry by providing benefits and facilities to foreign companies that want to invest in this sector.

Taiwan:

National plan for technological industry: Taiwan considers the semiconductor sector as one of its priorities in the national plan for technological industry, and provides financial support and facilities to promote development and innovation in this field.

Cooperation with the private sector and academia: Taiwan encourages cooperation between the government sector, the private sector and academia to achieve pioneering technical developments in the field of semiconductors.

Skills and Workforce Development: Taiwan invests in developing labor skills and providing specialized training to support industry growth and increase competitiveness.

Government support in both cases is aimed at promoting technology, innovation and increasing competitiveness in the semiconductor industry, which in turn helps to strengthen the global position of China and Taiwan in this vital sector.

2.5. Political Relations: The complex political relationship between China and Taiwan affects the semiconductor competition, adding an additional dimension to the rivalry (BBC 2022).

2.6. **Technology Transfer:** Both countries aim to develop their advanced semiconductor technologies but heavily rely on foreign technology, leading to efforts to acquire technology through various means (EGE 2022).

The competition between China and Taiwan in the semiconductor industry is driven by various economic, strategic, and political factors, as both countries recognize the industry's significance in achieving future growth and competitiveness. The United States' policies also play a vital role, supporting Taiwan while imposing sanctions on China, which has intensified the conflict between the two parties.

3. Stakes of the Sino-Taiwanese Conflict Over Electronic Chips

The competition's stakes are significant for both countries, and they face various challenges in the semiconductor industry, including intellectual property concerns, dependence on foreign technology, high research and development costs, talent shortages, and environmental and safety regulations (BBC 2022; Le Figaro 2022). Relations between China and Taiwan have a significant impact on the competition and the semiconductor industry between the two countries, as these relations are characterized by complexity and political and economic challenges. The following points summarize the impact of these relationships:

Technical cooperation and Exchange: While there are political tensions between China and Taiwan, there are also levels of technical cooperation and exchange between the two countries. Some companies and enterprises in Taiwan cooperate with Chinese companies in the field of semiconductors for mutual benefit.

Impact on trade and investment: China-Taiwan relations affect the flow of trade and investment between the two countries. The semiconductor industry is influenced by the trade and economic policies and decisions made by governments in China and Taiwan.

Technology transfer and intellectual property rights: There are challenges related to technology transfer and intellectual property rights between China and Taiwan as a result of political tensions. There may be concerns about technology transfer and leakage of technical information.

The impact of political stability on investments and R&D: Political tensions between China and Taiwan may affect the stability of investments and R&D in the semiconductor industry. Political instability can affect the decisions of companies and investors.

Impact on brands and reputation: The impact of China-Taiwan relations can be reflected on the brands and reputation of companies in the semiconductor industry. Companies may face challenges in building a positive reputation and customer trust in the market.

In general, China-Taiwan relations affect various aspects of the semiconductor industry through their impact on trade, technical cooperation, investments, and intellectual property rights. Political and economic tensions between the two countries may disrupt or enhance their competitiveness in this vital sector. The semiconductor industry between China and Taiwan faces many challenges that affect the competitiveness and cooperation between the two countries. Political tensions between China and Taiwan affect the economic and trade relations between the two countries, and this may complicate technical cooperation and technology transfer.

4. The United States of America's Policy Towards China in the Field of Semiconductors

The United States has implemented export restrictions on semiconductor-related items, aiming to prevent China's progress in the semiconductor industry. The restrictions have led to tensions and complaints to the World Trade Organization (BBC 2022). Washington has used electronic chips in its economic war, or rather, its geostrategic conflict with Beijing. The administration of former President Donald Trump was able to cut off semiconductor supplies from Taiwan and others to

the Chinese company "Huawei" after Beijing banned access to all American chip technology. In October 2022, the administration of current President Joe Biden imposed a set of export controls restricting sales of advanced electronic chips to China, which include chips designed to run artificial intelligence applications, military supercomputers, as well as chip manufacturing equipment. Taiwan quickly jumped to the American side, announcing that it would not allow Chinese chip design companies to contract with Taiwanese chip factories to produce chips that could replace those that the United States no longer allows to be sent to China. US President Joe Biden has been more open than any US president in decades about defending Taiwan from a possible Chinese invasion, and Taiwan's semiconductor industry has also been a victim of Chinese government-backed industrial espionage and talent hunting campaigns. South Korea, one of the closest US allies in Asia, has indicated that it will also cut off chip supplies to China if Washington imposes global sanctions on it. Cutting off supplies will put China and Russia in a significantly weak technical position and hinder their manufacture of advanced military equipment. Observers say Taiwan's government is aware that China's goal is to end its strategic dependence on Taiwan's semiconductors and electronic chips, which Taiwan refers to as the "Silicon shield", as soon as possible. Of course, Taiwan is committed to US policies aimed at preventing this, although it generally prefers to be as calm as possible about this to minimize the reaction from China. Greg Allen, a semiconductor policy expert, says that given that US companies design more than 95 percent of the AI chips used in China, as well as produce the manufacturing equipment used in every Chinese chip factory, these export controls pose an extraordinary obstacle to China's ambitions to lead the world in AI technology and achieve semiconductor.

While Washington wants to prevent China from acquiring sufficient technology for self-reliance in the production of electronic chips, it may seek to undermine Taiwan's electronic chip industry as well due to several concerns. When automakers in the United States, Europe, Japan and their governments turned to Taiwan to fill the shortage of electronic chips in 2021, they gave Taipei political and economic clout in a world where technology is being recruited in the great power rivalry between the United States and China, according to the American "Bloomberg" network. So, the West considers Taiwan's grip on the semiconductor business to be a threatening point in the global supply chain, pushing many powers from Tokyo to Washington to increase self-reliance.

The main concern about Taiwan's dominance in the chip industry relates to the fact that it is under constant threat of a Chinese invasion, as Beijing refuses to give up the use of force to resolve the dispute over the status of the island. In previous years, as part of its ongoing military expansion, China has deployed missiles along the Taiwan Strait, periodically conducted military exercises near the island, and sent fighter jets and its aircraft carrier over and around the Strait in a show of force. China conducted military exercises around Taiwan, including simulated attacks and a blockade of the island, which it considers an integral part of its territory. The Group of Seven has consistently warned Beijing against any attempt to change the status quo with respect to Taiwan by force, and some of its members have sounded the alarm in recent days.

According to analysts, the biggest concern is that the Taiwanese company's chip factories would cause collective damage if China followed through on its threats to invade Taiwan. A military invasion of Taiwan could disrupt the supply of semiconductors and electronic chips and seriously disrupt dozens of high-tech companies that rely on them. The head of the Taiwanese company, Mark Liu, expressed concern in this regard when he warned last year that the military invasion would make TSMC factories inoperable (Independarabia.com 2022).

Washington's concern also relates to China's control over the electronic chip industry if it succeeds in annexing Taiwan to its sovereignty. In March, former US national security adviser Robert O'Brien said that his country would destroy Taiwan's highly developed chip

industry so that China could not seize it if it successfully annexed the island. "The United States and its allies will not let these factories fall into the hands of the Chinese," he said in press comments. He compared the order to the decision of the late British Prime Minister Winston Churchill to destroy the French naval fleet during World War II after the surrender of France to Nazi Germany, killing more than 1,000 sailors.

Like Taiwan, Japan and the Netherlands are also global giants in the semiconductor industry, along with the United States, the group of these countries dominates the market for complex equipment, which is a vital component of all chip factories. While there are Chinese companies that produce semiconductor manufacturing equipment, they produce only a small part of the many different types of equipment required for the production of chips, and the equipment produced by Chinese companies lags far behind the latest technologies in the United States, the Netherlands and Japan. According to the Center for Strategic and International Studies, the most advanced Dutch machines, for example, contain more than 100 thousand pieces and cost more than 340 million dollars each, rivaling the James Webb Space Telescope in terms of technological complexity.

On the other hand, the United States is intensifying its efforts to strengthen its capabilities in the chip industry and reduce dependence on external sources. Biden last year signed the long-awaited law CHIPS and Science Act, which allocates about 52 billion dollars to promote the production of microchips, the powerful engine of high-end electronics used in a wide range of products, including smartphones, electric vehicles, aircraft and military gear. Earlier, US Commerce Secretary Gina Raimondo stressed the need to reduce dependence on supplies from Taiwan, saying that "our dependence on Taiwan for chips is untenable and unsafe." During the Trump administration, Washington negotiated with Taiwan to establish a 12 billion-dollar chip manufacturing plant in Arizona. Similarly, it agreed with the South Korean electronics company "Samsung" on a USD 10 billion facility in Austin, Texas. The "Chips for America - Chips for America Act," passed by Congress last year, was also introduced to encourage the establishment of more factories in the United States.

In return, China is pushing to strengthen its domestic semiconductor manufacturing capacity. Beijing has pledged to allocate 150 billion dollars to expand the industry and increase self-reliance, within the framework of which plans have been made to build new semiconductor production plants. According to the Chinese National Bureau of Statistics, chip manufacturing in China grew by 33.3 percent in 2021. Observers expect China to produce more advanced chips than before (Independarabia.com 2023).

5. Results of the Sino-Taiwanese Competition for Electronic Chips

The competition has resulted in increased investment and development in both countries' semiconductor industries, significant government support, market share gains, intellectual property concerns, and the policy of the USA towards the Chinese semiconductor industry is focused on several aspects, including Sino-Taiwanese competition in this area. Here's an overview of this policy:

National security and technology: The U.S. semiconductor industry is a vital sector in terms of national security and technology. Therefore, it may take restrictive and controlling policies to prevent the transfer of advanced technology to China.

Combating technological dependence: The United States seeks to reduce its dependence on semiconductor technology imported from China and promotes the development of a domestic manufacturing and design base to achieve technological independence.

Laws and legislation: The United States may impose laws and legislation to verify the use of American technology in China in accordance with national security standards.

Support for domestic R&D: The US government may provide support to domestic enterprises to develop advanced semiconductor technology and enhance competitiveness.

Alliances and international cooperation: The United States may strengthen cooperation with other countries regarding the semiconductor industry and share knowledge and technology to address Chinese challenges.

Export bans and sanctions: The United States may impose restrictions on the export of certain technologies and equipment to Chinese companies, and this may affect supply and competitiveness.

In general, the policy of the United States is aimed at maintaining the competitiveness of domestic industry and ensuring national security, and may take measures to control the transfer of technology and innovation to China. This policy directly affects the competition between China and Taiwan in the semiconductor field and may pose additional challenges for the two countries in this context of continued dependence on foreign technology (EGE 2022; Thra 2022; BBC 2022).

6. The results of the Chinese-Taiwanese competition on semiconductors

The competition between China and Taiwan over semiconductors has produced several important results affecting the technological and economic sector both regionally and globally. Among these results are:

Sustainable technological progress: the competition between China and Taiwan in the field of semiconductors has pushed the sector to continuous technological development. This progress involved improvements in chip performance and the development of more advanced manufacturing techniques.

Advanced innovations: competitive pressure has pushed companies and researchers in China and Taiwan to innovate and develop new technologies, resulting in the production of chips with advanced functionality and new applications.

Market expansion and job creation: the success of China and Taiwan in the field of semiconductors contributes to the expansion of the domestic and global market, which creates greater opportunities for companies and investors and increases the number of jobs.

Economic and trade impact: the semiconductor industry spans a wide range of sectors, so the success of China and Taiwan in this area positively affects the two national economies.

Competitive price and quality: competition pushes companies to offer products at competitive prices and improved quality, which customers benefit from by providing better products at affordable prices.

Supply chain and technology evolution: competition stimulates the development of supply chain and advanced manufacturing technologies, supporting innovation and sustainability in the sector.

Political and geopolitical effects: success in this area affects the political and geopolitical context between China and Taiwan and on relations with other countries.

In general, the competition between China and Taiwan in the semiconductor field brings multiple benefits from technological progress and innovations to providing economic opportunities and providing benefits to the industry and the two economies. However, the potential challenges and risks in such an advanced competition should also be taken into account.

7. Conclusion

The semiconductor competition between China and Taiwan holds profound economic and technological implications. The rivalry is driven by their investments and achievements in technology, as both countries aim to secure a competitive edge. The competition is expected to benefit the global semiconductor industry through innovation and reduced prices. However, political tensions between China and Taiwan may affect the stability of investments and research and development (R&D) efforts in the semiconductor industry. Political instability can affect the

decisions of companies and investors. Furthermore, the impact of China-Taiwan relations can be reflected in the brands and reputation of companies operating within the semiconductor industry. Companies may face challenges in establishing and maintaining positive reputations and in earning customer trust in a climate characterized by geopolitical tensions. In general, China-Taiwan relations affect various aspects of the semiconductor industry through their impact on trade, technical cooperation, investments, and intellectual property rights. Political and economic tensions between the two countries can either disrupt or enhance their competitiveness within this pivotal sector. The semiconductor industry is a technological and geopolitical intersection with significant implications for all stakeholders involved.

References

BBC. December 17, 2022. "BBC Arabic." Accessed February 2, 2023. https://www.bbc.com/arabic/world-64000816.

Britannica Encyclopedia. 2022. "Semiconductors." Accessed January 19, 2023. http://www.britannica.com/encyclopedia/semiconductors.

E.G.E. 2022. Encerclement Cognetif sur la Chine à propos des Semiconducteurs.

Independarabia, Indji Madjdi. 2023, April 20. “Semiconductors war.” Accessed on August 20, 2023.

Le Figaro. 2022. "Puces Électroniques: La Menace Chinoise sur Taïwan Fait Trembler le Monde." By Bombaron Elsa. https://www.lefigaro.fr/secteur/high-tech/puces-electroniques-la-menace-chinoise-sur-taiwan-fait-trembler-le-monde-20220811.

Review Cybersecurity. 2021. Pecen on Quantum Safe Cryptography.

Thra. 2022. "Semiconductors." Accessed January 30, 2023. https://www.thra.com/2022/11/chips-and-semiconductors.html.

ISSN 2578-8574
ISBN 978-1-945298-58-5

RESEARCH ASSOCIATION FOR INTERDISCIPLINARY STUDIES